

AUG 1 8 2005

EMPLOYEE RELATIONS

SETTLEMENT AGREEMENT

This Agreement is entered into between the Los Angeles County Sheriff's Department, hereinafter referred to as "Department," and Deputy John Vensel, Employee Number [redacted] hereinafter referred to as "Grievant."

The Department and Grievant are parties to this dispute and desire to settle all issues involved in the Letter of Intent dated May 3, 2005, (IAB No. 2140077), upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, the Department and Grievant for and in consideration of the mutual covenants contained herein, agree as follows:

1. The Department will, upon execution of this Agreement, reduce the intended three (3) day suspension to a written reprimand.

2. Further, the Department will issue the Grievant a written reprimand that contains the violation of Manual of Policy and Procedures Section 3-01/050.10, Performance to Standards. A copy of that written reprimand is attached as Exhibit A to this Settlement Agreement. The Grievant accepts the reprimand and understands that a copy will be placed in his personnel file.

3. The Grievant agrees to withdraw his grievance and waive any and all further administrative or judicial remedies with respect to the modified discipline.

4. The parties further agree that this Settlement shall not be considered, cited, or used in future disputes as establishing past precedent or past employment practice.

5. In consideration of the terms and conditions set forth herein, Grievant agrees to fully release, acquit and forever discharge the County, and all present and former officers, employees and agents of the County, and their heirs, successors, assigns and legal representatives from any and all liability whatsoever for any and all claims arising out of or connected with the employment relationship between the County and Grievant concerning the subject matter of the grievance referred to herein.

6. The Grievant further agrees to relinquish and expressly waives all rights conferred upon him by the provisions of California Civil Code Section 1542, which reads as follows:

8/24/05
av

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

7. The date of the last signature placed hereon shall hereinafter be known as the "date of execution" and the "effective date" of this Agreement.

8. The parties agree that the foregoing comprises the entire Agreement between the parties and that there have been no other promises made by any party. Any modification of this Agreement must be in writing.

I have read the foregoing Settlement Agreement, and I accept and agree to the provisions contained therein and hereby execute it voluntarily and with full understanding of its consequences.

For the Sheriff's Department:

Date: 8-9-05

John Vensel, Deputy

Date: 8/11/05

Neal Tyler, Chief

76A551N25A - SH-AD-32A (2/72)

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

OFFICE CORRESPONDENCE

DATE:
FILE NO.

FROM: CARL H. DEELEY, CAPTAIN
LANCASTER STATION

TO: JOHN VENSEL
DEPUTY SHERIFF, #[redacted]
LANCASTER STATION

SUBJECT: **WRITTEN REPRIMAND**

On June 17, 2004, you were assigned to a two-man unit when you made a traffic stop on a possible narcotics dealer. A back-up unit immediately arrived to assist you and your partner. The suspect feigned compliance by pulling over, but after you and your partner exited your patrol car and started to walk toward his car, he began to drive away. As the handling unit on a situation that was about to become a pursuit, you had the responsibility to communicate a tactical plan, however brief, to the back-up deputies. Although the distance traveled by the suspect was comparatively short, your failure to give any direction to the assisting unit contributed to that unit's decision to drive past your car, past you and your partner, pull up to the side of the suspect's vehicle, and shout at him to pull over. This tactic as well as their subsequent tactic of immediately running up to the suspect's vehicle was unsafe.

You have violated the following section of the Manual of Policy and Procedures:

3-01/050.10 Performance to Standards

You are hereby reprimanded and advised that when you are the handling unit in a rapidly unfolding event, it is necessary to promptly assume command and communicate in a timely manner with assisting units. You are admonished that future incidents of this nature will result in more severe discipline.

John Vensel — Date: 8-9-05

Carl H. Deeley — Date: 08-02-05



County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



LEROY D. BACA, SHERIFF

May 3, 2005

Deputy John Vensel, #[redacted]

Dear Deputy Vensel:

You are hereby notified that it is the intention of the Sheriff's Department to suspend you without pay from your position of Deputy Sheriff, Item No. 2708A, with this Department for a period of three (3) days.

An investigation under File Number IAB 2140077, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual of Policy and Procedures Section 3-01/050.10, Performance to Standards, on or about June 17, 2004, you failed to perform your duties in a manner which would tend to establish and maintain the highest standard of efficiency in carrying out the functions and objectives of the Department by utilizing poor tactics and failing to communicate on the radio that you had a vehicle which was failing to yield; and/or you did not communicate with your partners, your intended actions; and/or failed to coordinate a tactically safe vehicle pull over and approach; and/or rushed up to the vehicle instead of remaining a safer distance away; and/or when you and your partners engaged the suspect instead of using a safer tactic of having the suspect exit the vehicle.

Prior to determining this disciplinary action, I have thoroughly reviewed the incident and your record with this Department.

You have the right to grieve this disciplinary action within ten (10) business days of receipt of this letter. Your grievance procedures may be found in your classification's negotiated Memorandum of Understanding.

Failure to respond to this Letter of Intent within ten (10) business days will be considered a waiver of your right to grieve and will result in the imposition of this discipline indicated herein.

You may receive a copy of the material on which the discipline is based by contacting Angela Vargas of the Internal Affairs Bureau at [redacted] and arranging an appointment during the ten (10) day period in which you may respond.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

Original Signed

Carl H. Deeley, Captain
Commander, Lancaster Station

CHD:KM:av

c: Advocacy Unit
Employee Relations Unit
Neal B. Tyler, Chief, Field Operations Region I
Internal Affairs Bureau
Office of Independent Review (OIR)
(File # IAB 2140077)

I certify that on the date indicated below, I received the original of the attached **LETTER OF INTENT** under File Number ***IAB 2140777***.

5-3-05

Date

John Vensel

JOHN VENSEL, #[redacted]

I certify that on the date indicated below, I served the original Letter of Intent to ***JOHN VENSEL.***

05-03-05

Date

WITNESS SIGNATURE

WITNESS PRINT

Please return this page within two (2) business days to:
ANGELA VARGAS
INTERNAL AFFAIRS BUREAU
4900 S. EASTERN AVE., #100
COMMERCE CA 90040
[redacted]



County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



LEROY D. BACA, SHERIFF

July 6, 2005

Certified Mail No. 7003 3110 0001 4839 0110

Deputy Kevin Haines
[redacted]

Dear Deputy Haines:

This letter is to inform you that the Sheriff's Department has rendered its decision on the grievance you filed on May 5, 2005. Employee Relations received the decision on June 24, 2005.

It is the decision of the Sheriff's Department that the grievance is denied. The three (3) day suspension under IAB No. 2140077 shall stand.

Sincerely,

LEROY D. BACA, SHERIFF

R. Doyle Campbell

R. DOYLE CAMPBELL
ASSISTANT SHERIFF



County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



LEROY D. BACA, SHERIFF

May 3, 2005

Deputy Kevin Haines, #[redacted]

Dear Deputy Haines:

You are hereby notified that it is the intention of the Sheriff's Department to suspend you without pay from your position of Deputy Sheriff, Item No. 2708A, with this Department for a period of three (3) days.

An investigation under File Number IAB 2140077, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual of Policy and Procedures Section 3-01/050.10, Performance to Standards, on or about June 17, 2004, you failed to perform your duties in a manner which would tend to establish and maintain the highest standard of efficiency in carrying out the functions and objectives of the Department by utilizing poor tactics and failing to communicate on the radio that you had a vehicle which was failing to yield; and/or you and your partner drove up next to the suspect's vehicle instead of following behind it; and/or when you rushed up to the vehicle with your partner instead of remaining a safer distance away; and/or you did not communicate with your partners, your intended actions; and/or failed to coordinate a tactically safe vehicle pull over and approach; and/or engaged the suspect instead of using a safer tactic of having the suspect exit the vehicle.

Prior to determining this disciplinary action, I have thoroughly reviewed the incident and your record with this Department.

You have the right to grieve this disciplinary action within ten (10) business days of receipt of this letter. Your grievance procedures may be found in your classification's negotiated Memorandum of Understanding.

Failure to respond to this Letter of Intent within ten (10) business days will be considered a waiver of your right to grieve and will result in the imposition of this discipline indicated herein.

You may receive a copy of the material on which the discipline is based by contacting Reba Barnes of the Internal Affairs Bureau at [redacted] and arranging an appointment during the ten (10) day period in which you may respond.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

Original Signed

Carl H. Deeley, Captain
Commander, Lancaster Station

CHD:KM:rjb

c: Advocacy Unit
Employee Relations Unit
Neal B. Tyler, Chief, Field Operations Region I
Internal Affairs Bureau
Office of Independent Review (OIR)
(File # IAB 2140077)

I certify that on the date indicated below, I received the original of the attached Letter of Intent under File Number ***IAB 2140077.***

5/3/05
Date

KEVIN HAINES, #[redacted]

I certify that on the date indicated below, I served the original Letter of Intent to ***KEVIN HAINES.***

05-03-05
Date

WITNESS SIGNATURE

WITNESS PRINT

Please return this page within two (2) business days to:

REBA BARNES
Internal Affairs Bureau
4900 S. Eastern Ave. #100
Commerce CA 90040
[redacted]



County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



LEROY D. BACA, SHERIFF

July 27, 2005

Deputy Richard Ellis, #[redacted]

Dear Deputy Ellis:

On May 3, 2005, you were served with a Letter of Intention, indicating your right to respond to the Sheriff's Department's pending disciplinary action against you, as reported under File Number IAB 2140077. You were also advised of your right to review the material on which the discipline was based.

You did exercise your right to respond. However, after review and consideration of the response submitted to support your position, Department executives determined that the recommended discipline is appropriate.

You are hereby notified that you are suspended without pay from your position of Deputy Sheriff, Item No. 2708A, with this Department for a period of three (3) days effective July 28, 2005 through July 30, 2005.

An investigation under File Number IAB 2140077, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual of Policy and Procedures Section 3-01/050.10, Performance to Standards, on or about June 17, 2004, you failed to perform your duties in a manner which would tend to establish and maintain the highest standard of efficiency in carrying out the functions and objectives of the Department when you utilized poor tactics and neglected to communicate on the radio that you had a vehicle which was failing to yield; and/or you and your partner drove up next to the suspect's vehicle instead of following behind it; and/or when you rushed up to the vehicle instead of remaining a safer distance away; and/or you did not communicate with your partners your intended actions; and/or failed to coordinate a tactically safe vehicle pull over and approach; and/or you engaged the suspect instead of using a safer tactic of having the suspect exit the vehicle.

Prior to imposing this disciplinary action, I have thoroughly reviewed the incident and your record with this Department.

You will hereby take notice that any future acts of misconduct may result in more severe disciplinary action.

You may appeal the Department's action in this matter pursuant to Rule 18.01(c) of the Civil Service Rules.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

Original Signed

Carl H. Deeley, Captain
Commander, Lancaster Station

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures and Civil Service Rules.

CHD:KM:rjb

c: Advocacy Unit
Neal B. Tyler, Chief, Field Operations Region I
Internal Affairs Bureau
Personnel Administration
Office of Independent Review (OIR)
Lancaster Station/unit Personnel File

(Attachment)
Civil Service Rule 18.01

C. An employee who is suspended for up to five (5) days may appeal such suspension to the Director of Personnel. Any such appeal must be in writing, shall contain specific detailed information, and must be received by the Director of Personnel within fifteen (15) business days of the employee's notification of the suspension. Please send your appeal to the Director of Personnel, Appeals Division, Kenneth Hahn Hall of Administration, 222 North Grand Avenue, Room 555, Los Angeles, California 90012. The Director of Personnel may not consider any information or charges made by the appointing power unless they are contained in the letter of suspension, nor any made by the employee unless the employee has previously provided them to the appointing power for consideration, unless such information or charges were not then known and could not have reasonably been expected to be known by the appointing power or employee. The Director of Personnel shall determine whether or not to consider the appeal, or whether or not the suspension is justified. (Ord. 88-0020 1 (part), 1988.)

I certify that on the date indicated below, I received the original of the attached **LETTER OF SUSPENSION** under File Number ***IAB 2140077*** as set forth in Section 18.01 of the Rules of the Los Angeles County Civil Service Commission.

07-27-05
DATE

Richard Ellis
RICHARD ELLIS, #[redacted]

I certify that on the date indicated below, I served the original of the attached letter of suspension on ***RICHARD ELLIS*** as set forth in Section 18.01 of the Rules of the Los Angeles County Civil Service Commission.

07-27-05
DATE

WITNESS SIGNATURE

CARL DEELEY
WITNESS PRINT

Please return this page along with Timekeeping Notification within two (2) business days to:

REBA BARNES
INTERNAL AFFAIRS BUREAU
4900 S. EASTERN AVE. #100
CITY OF COMMERCE CA 90040
[redacted]



County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



LEROY D. BACA, SHERIFF

July 6, 2005

Certified Mail No. 7003 3110 0001 4839 0103

Deputy Richard Ellis
[redacted]

Dear Deputy Ellis:

This letter is to inform you that the Sheriff's Department has rendered its decision on the grievance you filed on May 5, 2005. Employee Relations received the decision on June 24, 2005.

It is the decision of the Sheriff's Department that the grievance is denied. The three (3) day suspension under IAB No. 2140077 shall stand.

Sincerely,

LEROY D. BACA, SHERIFF

R. Doyle Campbell

R. DOYLE CAMPBELL
ASSISTANT SHERIFF



County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



LEROY D. BACA, SHERIFF

May 3, 2005

Deputy Richard Ellis, #[redacted]

Dear Deputy Ellis:

You are hereby notified that it is the intention of the Sheriff's Department to suspend you without pay from your position of Deputy Sheriff, Item No. 2708A, with this Department for a period of three (3) days.

An investigation under File Number IAB 2140077, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual of Policy and Procedures Section 3-01/050.10, Performance to Standards, on or about June 17, 2004, you failed to perform your duties in a manner which would tend to establish and maintain the highest standard of efficiency in carrying out the functions and objectives of the Department when you utilized poor tactics and neglected to communicate on the radio that you had a vehicle which was failing to yield; and/or you and your partner drove up next to the suspect's vehicle instead of following behind it; and/or when you rushed up to the vehicle instead of remaining a safer distance away; and/or you did not communicate with your partners your intended actions; and/or failed to coordinate a tactically safe vehicle pull over and approach; and/or you engaged the suspect instead of using a safer tactic of having the suspect exit the vehicle.

Prior to determining this disciplinary action, I have thoroughly reviewed the incident and your record with this Department.

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Failure to respond to this Letter of Intent within ten (10) business days will be considered a waiver of your right to grieve and will result in the imposition of this discipline indicated herein.

You may receive a copy of the material on which the discipline is based by contacting Reba Barnes of the Internal Affairs Bureau at [redacted] and arranging an appointment during the ten (10) day period in which you may respond.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

Original Signed

Carl H. Deeley, Captain
Commander, Lancaster Station

CHD:KM:rjb

c: Advocacy Unit
Employee Relations Unit
Neal B. Tyler, Chief, Field Operations Region I
Internal Affairs Bureau
Office of Independent Review (OIR)
(File # IAB 2140077)

I certify that on the date indicated below, I received the original of the attached Letter of Intent under File Number ***IAB 2140077.***

05-03-05
Date

RICHARD ELLIS, # [redacted]

I certify that on the date indicated below, I served the original Letter of Intent to ***RICHARD ELLIS.***

05-03-05
Date

WITNESS SIGNATURE

CARL DEELEY
WITNESS PRINT

Please return this page within two (2) business days to:

REBA BARNES
Internal Affairs Bureau
4900 S. Eastern Ave. #100
Commerce CA 90040
[redacted]

761551N25A - SH-AD (11/90)

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

DATE: March 2, 2005

OFFICE CORRESPONDENCE FILE:

FROM: JOHNNY G. JURADO, COMMANDER
LEADERSHIP & TRAINING DIVISION

TO: CARL H. DEELEY, CAPTAIN
LANCASTER STATION

SUBJECT: **EXECUTIVE FORCE REVIEW COMMITTEE FINDINGS AND RECOMMENDATIONS USE OF FORCE, JUNE 17, 2004, INVESTIGATION #2140077 (AKA #2121356)**

The purpose of this memo is to notify you of the review committee's findings and recommendations concerning the use of force incident which occurred on June 17, 2004.

The Committee met on February 24, 2005, and consisted of myself and Commanders Kenneth Brazile (Commander of the Department) and Robert Binkley (FOR III). The Committee deemed:

- as **Founded** the allegation that Deputy [redacted] #[redacted] violated the Department's Manual of Policy and Procedure section(s) 3-01/050.10, Performance to Standards, and

- as **Founded** the allegation that Deputy Kevin Haines #[redacted] violated the Department's Manual of Policy and Procedure section(s) 3-01/050.10, Performance to Standards, and

- as **Founded** the allegation that Deputy Richard Ellis #[redacted] violated the Department's Manual of Policy and Procedure section(s) 3-01/050.10, Performance to Standards, and

- as **Founded** the allegation that Deputy John Vensel #[redacted] violated the Department's Manual of Policy and Procedure section(s) 3-01/050.10, Performance to Standards, and

- as **Founded** the allegation that [redacted] #[redacted] violated the Department's Manual of Policy and Procedure section(s) 3-01/050.10, Performance to Standards.

The Committee recommended that Deputies [redacted] Haines, Ellis and Vensel be suspended for a period of **three (3) days** without pay from the position of Deputy. The Committee Recommended that [redacted] be suspended for a period of **five (5) days** without pay from the position of Sergeant.

The Committee recognized that the involved personnel have already been involved in significant debriefing regarding this incident and additional training with the Laser Village training staff.

JGJ:KRK:kk

TABLE OF CONTENTS

MISCELLANEOUS DOCUMENTS

Los Angeles County Sheriff's Department
Supervisor's Report on Use of Force

Incident Information

URN:	404-11502-1121-184	Date:	06-17-04	Time:	1600
Location:	651 WEST AVENUE I, LANCASTER				
City or Station:	LANCASTER STATION				
Bureau/Station/Facility:	LANCASTER STATION	Admin. Investigation: YES ☐ NO ☒			

Employee Witnesses

Emp. #	Last Name	First Name	Middle Name
[redacted]	[redacted]	[redacted]	[redacted]

Non-Employee Witnesses

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Work Ph.	Home Ph.

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Work Ph.	Home Ph.

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Work Ph.	Home Ph.

On Duty Supervisor

Emp. #	Last Name	First Name	Middle Name	Rank	Present	Witness to Incident
[redacted]	SYLVIES	STEVE	L.	SGT.	YES ☐ NO ☒	YES ☐ NO ☒
					YES ☐ NO ☐	YES ☐ NO ☐

Watch Sergeant

Emp. #	Last Name	First Name	Middle Name
[redacted]	BROWN	DARREL	D.

Watch Commander

Emp. #	Last Name	First Name	Middle Name
[redacted]	FULLERTON	WALLACE	C.

Watch Commander's Signature: ____________________ Emp #: __________

Copy Provided to Employee by: ____________________ Emp #: __________

Supervisor Completing Form: WILLIAM HINES (Print) Emp #: [redacted]

Unit Commanders Signature: ____________________ Emp #: __________ Date Signed: __________

PSTD Use Only

FO# 2121356

Original: Unit Commander
Copy: P.S.T.D.Headquarters, Employee

See Reverse

SH-R-438 Rev. 10/98

Supervisor's Report on Use of Force

URN: 404-11502-1121-184

Method

(AW) Arwen
(BC) Baton: (Control)
(BI) Baton: (Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds: (Control Techniques)
(TT) Control Holds: (Team Takedown)
(TD) Control Holds: (Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device: Hobble (Legs Only)
(TP) Restraint Device: Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hands
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(NO) Nose
(SH) Shoulder
(WR) Wrist

FORCE APPLIED

(Only One Code Per Block)

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Type of Injury (Code)	Body Part (Code)
E#1	S#1	FL	FR	EL
E#1	S#1	FL	FR	CH (RIBS)
E#2	S#1	OB	FR	NO
E#3	S#1	PO	NN	
S#1	E#1	RS	NN	
S#1	E#2	RS	NN	
S#1	E#3	RS	NN	

See Front Side

Supervisor's Report on Use of Force
INVOLVED EMPLOYEE INFORMATION

URN: 404-11502-1121-184

Involved Employee

E1

Employee #	Last Name	First Name	Middle Name
[redacted]	HAINES	KEVIN	R.

Sex	Race	Unit of Assignment	Work Assignment (Unit #, Module, etc.)
☒ Male ☐ Female	W	LANCASTER STATION	111E1

Shift		Age	Height	Weight
☐ EM ☐ Day ☒ PM	☒ Regular Shift ☐ OT Shift ☐ Off Duty	[redacted]	5' 8"	185

Medical Exam/Treatment	If Admitted, Name of Hospital	Coroner Case #	
☐			Directed Force ☐ Significant Force ☒

E2

Employee #	Last Name	First Name	Middle Name
[redacted]	ELLIS	RICHARD	A.

Sex	Race	Unit of Assignment	Work Assignment (Unit #, Module, etc.)
☒ Male ☐ Female	W	LANCASTER STATION	111E1

Shift		Age	Height	Weight
☐ EM ☐ Day ☒ PM	☒ Regular Shift ☐ OT Shift ☐ Off Duty	[redacted]	6'	215

Medical Exam/Treatment	If Admitted, Name of Hospital	Coroner Case#	
☐			Directed Force ☐ Significant Force ☒

E3

Employee #	Last Name	First Name	Middle Name
[redacted]	VENSEL	JOHN	D.

Sex	Race	Unit of Assignment	Work Assignment (Unit #, Module, etc.)
☒ Male ☐ Female	W	LANCASTER STATION	111E2

Shift		Age	Height	Weight
☐ EM ☐ Day ☒ PM	☒ Regular Shift ☐ OT Shift ☐ Off Duty	[redacted]	6' 1"	205

Medical Exam/Treatment	If Admitted, Name of Hospital	Coroner Case#	
☐			Directed Force ☐ Significant Force ☒

E_

Employee #	Last Name	First Name	Middle Name

Sex	Race	Unit of Assignment	Work Assignment (Unit #, Module, etc.)
☐ Male ☐ Female			

Shift		Age	Height	Weight
☐ EM ☐ Day ☐ PM	☐ Regular Shift ☐ OT Shift ☐ Off Duty			

Medical Exam/Treatment	If Admitted, Name of Hospital	Coroner Case#	
☐			Directed Force ☐ Significant Force ☐

E_

Employee #	Last Name	First Name	Middle Name

Sex	Race	Unit of Assignment	Work Assignment (Unit #, Module, etc.)
☐ Male ☐ Female			

Shift		Age	Height	Weight
☐ EM ☐ Day ☐ PM	☐ Regular Shift ☐ OT Shift ☐ Off Duty			

Medical Exam/Treatment	If Admitted, Name of Hospital	Coroner Case#	
☐			Directed Force ☐ Significant Force ☐

E_

Employee #	Last Name	First Name	Middle Name

Sex	Race	Unit of Assignment	Work Assignment (Unit #, Module, etc.)
☐ Male ☐ Female			

Shift		Age	Height	Weight
☐ EM ☐ Day ☐ PM	☐ Regular Shift ☐ OT Shift ☐ Off Duty			

Medical Exam/Treatment	If Admitted, Name of Hospital	Coroner Case#	
☐			Directed Force ☐ Significant Force ☐

See Other Side

Supervisor's Report on Use of Force
SUSPECT INFORMATION

URN: 404-11502-1121-184

Suspect Information

S1

Last Name	MERZ JR.	First Name	ROGER	Middle Name	ANDREW
AKA Last Name		First Name		Middle Name	

Sex:	Race:	Street Address:	City:	State & Zip Code:
☒ Male ☐ Female	W	[redacted]	[redacted]	[redacted]

Work Phone:	Home Phone:	Age:	Height:	D.O.B.	Weight:	Armed?
UNEMPLOYED	[redacted]	39	6'	05-23-65	220	☐

Booking #: 8166943 Primary Charge: 11379(a) H&S Secondary Charge: 3056 PC Criminal History [redacted]

Hospital Admission? ☐ Rec'd Treatment At: ANTELOPE VALLEY MEDICAL CENTER Coroner Case#: Mental History ☐

Under Influence: ☐ YES ☒ NO Substance: ____________

Photos of Suspect's Injuries ☒ YES ☐ NO

Suspect Interview

Date:	Time:	Audiotape:	Videotape:
06-17&18-04	1600, 1035	☒	☒

Suspect Information

S_

Last Name		First Name		Middle Name	
AKA Last Name		First Name		Middle Name	

Sex:	Race:	Street Address:	City:	State & Zip Code:
☐ Male ☐ Female				

Work Phone:	Home Phone:	Age:	Height:	D.O.B.	Weight:	Armed?
						☐

Booking #: Primary Charge: Secondary Charge: Criminal History ☐

Hospital Admission? ☐ Rec'd Treatment At: Coroner Case#: Mental History ☐

Under Influence: ☐ YES ☐ NO Substance: ____________

Photos of Suspect's Injuries ☐ YES ☐ NO

Suspect Interview

Date:	Time:	Audiotape:	Videotape:
		☐	☐

Suspect Information

S_

Last Name		First Name		Middle Name	
AKA Last Name		First Name		Middle Name	

Sex:	Race:	Street Address:	City:	State & Zip Code:
☐ Male ☐ Female				

Work Phone:	Home Phone:	Age:	Height:	D.O.B.	Weight:	Armed?
						☐

Booking #: Primary Charge: Secondary Charge: Criminal History ☐

Hospital Admission? ☐ Rec'd Treatment At: Coroner Case#: Mental History ☐

Under Influence: ☐ YES ☐ NO Substance: ____________

Photos of Suspect's Injuries ☐ YES ☐ NO

Suspect Interview

Date:	Time:	Audiotape:	Videotape:
		☐	☐

See Other Side

INVESTIGATIVE NARRATIVE
SIGNIFICANT USE OF FORCE
FRACTURED ELBOW, NOSE, AND RIBS
IAB FO 2121356
URN: 404-11502-1121-184

On Thursday, June 17, 2004, at about 1830 hours, Lieutenant Stacy Lee of the Internal Affairs Bureau received a notification from Lieutenant Wallace Fullerton of Lancaster Station, regarding a head injury to a suspect's nose during his removal from his vehicle. It was originally related to Lieutenant Lee that the suspect sustained an abrasion to his nose. Lieutenant Lee later received additional detailed information that the suspect had been struck with a flashlight during his arrest. This information was not originally related to Lieutenant Lee. At about 0400 hours, the following morning, and after a second trip to the hospital, it was discovered that the suspect had sustained a fractured nose, fractured elbow and three fractured ribs. Sergeants William Hines and Elier Morejon received the initial Incident Report and Supplemental Reports and then interviewed the suspect at Twin Towers Correction Facility. The involved deputies were on training the day following the incident, then were on their regular days off. Two of the involved deputies were interviewed on Tuesday, June 22, 2004, and the third deputy was interviewed on July 7, 2004.

The narrative of this incident is based on information obtained from interviews of the involved employees, the suspect, and related reports. **Refer to Exhibits A through D-Incident Report and Supplemental Reports**

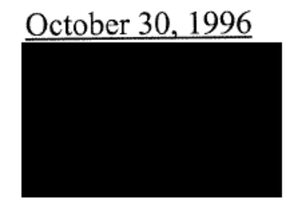
<u>INVOLVED PERSONNEL:</u>

<u>HAINES,</u> Kevin, Deputy, #[redacted]
<u>ELLIS,</u> Richard A., Deputy, #[redacted]
<u>VENSEL,</u> John D., Deputy, #[redacted]
Lancaster Station
Field Operations Region I

<u>EMPLOYEE WORK HISTORY:</u>

<u>HAINES,</u> Kevin

Date of Employment:	<u>October 30, 1996</u>
Date assigned to Patrol:	[redacted]
Completed Patrol Training:	
Prior Shooting Incidents:	
Prior Founded Force Incidents:	

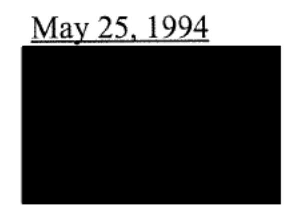


ELLIS, Richard

Date of Employment: April 27, 1983
Date assigned to Patrol: [redacted]
Completed Patrol Training:
Prior Shooting Incidents: March 18, 1995
Prior Founded Force Incidents: [redacted]

VENSEL, John D.

Date of Employment: May 25, 1994
Date assigned to Patrol: [redacted]
Completed Patrol Training:
Prior Shooting Incidents:
Prior Founded Force Incidents:



SUSPECT:

MERZ, Roger Andrew **M/W/39**

[redacted] For a complete list of Suspect Merz' Criminal History- **Refer to Exhibit E-Suspect Merz' Criminal History**

WITNESSES:

Sworn:
Deputy [redacted]
Lieutenant Wallace Fullerton (Watch Commander)
Sergeant Steve Sylvies
Deputy Randolph Megrdle

Civilian:
None

INJURIES:

Suspect Merz sustained a fracture to his left elbow, nose and three left ribs. He was treated at Antelope Valley Medical Center by Dr. Tom Lee and approved for booking. **Refer to Exhibit F-Photographs of Suspect's injuries and Exhibit G-Approval to book**

No deputies were injured during this incident.

PHYSICAL EVIDENCE:

There was a pool of blood at the scene. **Refer to Exhibit H-Photographs of blood at the scene**

INVESTIGATOR'S OBSERVATIONS:

The location of the incident was vacant parking lot at 651 West Avenue I, Lancaster. The parking lot was vacant at the time of the incident. Investigators located a small pool of blood near the south west portion of the parking lot. **Refer to Exhibit I-Photographs of Parking Lot**

WEAPONS USED BY DEPUTY PERSONNEL:

Flashlight and Personal weapons

WEAPONS USED BY SUSPECT:

Personal weapons and resistance

PROPERTY DAMAGE:

None

CRIMINAL INVESTIGATOR/CHARGES FILED:

On June 21, 2004, Detective Carl Thomas filed in Antelope Valley Court with the Deputy District Attorney, Kelly Chromer, the following charges: Reckless Driving, 23104 (a)CVC and Possession of a Controlled Substance, 11377 (a) H&S and violation of parole. **Case Number MA029195**

LIGHTING AND WEATHER CONDITIONS:

This incident occurred during the afternoon hours at about 1530 hours. The weather was hot and clear.

SUSPECT STATEMENTS:

SUSPECT ROGER MERZ

Suspect Roger Merz was interviewed at Twin Towers Correctional Facility on June 18, 2004, at 1036 hours, on the morning following the incident by Sergeants William Hines and Elier Morejon. He agreed to talk to investigators about the incident and his arrest. The interview was tape recorded and summarized as follows:

Suspect Merz said that yesterday afternoon, Thursday, June 17, 2004, he was in the area of Cedar Avenue and Jackman Street in Lancaster. He was leaving a friend's house and got in his truck and was driving on Cedar Avenue, approaching Avenue I. As he was "inching out into traffic," and waiting for traffic to clear on Avenue I, he could hear someone yelling, but could not understand what was being said. Suspect Merz said he looked to his left and through his open driver's side window, saw a gun in his face. He added that seeing the gun, "scared" him and "startled the shit" out of him. He then took off, but "not fast." He drove half-way across the street and he then looked back and saw the deputies in patrol cars. A patrol car with two deputies inside, drove up beside him on Avenue I, and yelled for Merz to pull over. Suspect Merz said that the deputies did not use their sirens or lights. Merz said he later saw a red light on the patrol cars.

According to Suspect Merz, he told the deputies, "Okay, I'll pull into this parking lot right here." Suspect Merz said the deputies all had their guns drawn. He then pulled into a parking lot and immediately stopped and turned off the truck. Merz could see the deputies run up to him and according to Suspect Merz, the next thing that happened was that he turned left to look back at the deputies and a flashlight came through the driver's side window and "splashed" his nose, while still sitting in the driver's seat with his hands on the steering wheel. Suspect Merz did not know which deputy hit him with a flashlight, nor could he describe the deputy that hit him with the flashlight.

Suspect Merz said after he was hit with the flashlight, he could see at least three or four deputies standing right outside his driver's side door. Merz said he was then punched once or twice by one of the deputies. After he was punched, Merz said the driver's door "flew open" and he was then "slammed to the ground." Merz said that while he was on the ground, "Someone just continued to just beat on my back." He tried to yell at the deputies to tell them that he recently had back surgery, however, they didn't stop. Suspect Merz added that he was not resisting and that he tried to "lay as prone" as he possibly could. Suspect Merz was adamant that he did not resist or fight the deputies.

Suspect Merz said he could not recall seeing any deputy on the passenger side of the truck.

When asked what specifically happened to him when he was on the ground, Suspect Merz said he thought he might have been kicked on his left side near his rib area. Merz was not sure if he was hit with a flashlight or a fist while on the ground. He estimated that he was kicked or hit at least ten times. He added that he asked the deputies to stop hitting him.

When asked if the deputies said anything to him, Suspect Merz said the deputies were "talking all kinds of shit, man, all kinds of mad shit, like where's the gun?" Merz told investigators that he did not have a gun.

When asked if he saw any witnesses to the incident, Merz said, "I didn't see much of nothing when I got hit with that flashlight." When asked to describe the parking lot where the incident occurred, Suspect Merz said that it was like an empty lot with some trees and that it would not be hard to find since he left "puddles of blood everywhere."

Suspect Merz could not describe the uniforms that the deputies were wearing at the time of the incident.

Suspect Merz said he kept his hands in view the entire time of the incident and did not reach for anything inside the truck, nor did he reach toward his waistband. Suspect Merz said he did not fight with the deputies. While on the ground, Merz said he was face down and his left arm was down to his side in a fashion of an arm signal indicating "slowing or stopping."

Suspect Merz said the entire incident, from being hit with a flashlight until he was handcuffed, lasted less than a minute. Once on the ground, Merz said he was handcuffed in about ten to fifteen seconds. After being handcuffed, Merz said he had trouble breathing and tried to again tell the deputies about his recent back surgery.

When asked if he ever hit his nose on the frame of the truck, Suspect Merz said, "No, it was a flashlight." Suspect Merz added, "One of them, I believe, was even pumping himself up or whatever about how he delivered it, or something, through the window." When asked to explain further about this comment, Merz said he told the deputy, something to the effect, "You swing a pretty mean flashlight." The deputy then "laughed it off." Merz did not know which deputy hit him with the flashlight.

Suspect Merz said at one point a sergeant arrived and took a video of him and asked what happened. Merz told the sergeant that he fell down. When asked to explain why he told the sergeant that he fell down instead of being hit with a flashlight, Suspect Merz said, "Because I didn't want anymore problems. Man, they scared the fuck out of me, they wouldn't stop." Suspect Merz said the sergeant accepted the story that he fell.

Suspect Merz told investigators that he did not know that there were two holsters inside the truck. He acknowledged that the truck was not his.

Suspect Merz did not know how his seat belt was removed.

Suspect Merz did not know how his left elbow was broken during the incident. He thought that it was possibly stepped on during the arrest.

Suspect Merz recalled talking to a Watch Commander after Merz returned from the hospital the first time. Regarding his first trip to the hospital, Merz said, "They took two quick x-rays of my chest area, that was it. They said there was nothing wrong. They didn't x-ray my arm. They threw a band-aide on my nose." Merz recalled talking to a doctor on this first trip, but Merz could not recall if the doctor asked him what happened. Merz did remember telling the doctor that he was having a hard time breathing, that his elbow hurt and his face hurt. Merz did not tell the doctor that he had been hit in the face with a flashlight.

Suspect Merz said the only person that he told that he was hit with a flashlight was the Watch Commander at Lancaster Station. Suspect Merz explained that he never said anything sooner about the flashlight strikes because he was scared and was still scared during the interview with IAB investigators.

During the second trip to the hospital, according to Suspect Merz, several x-rays were taken and it was determined that three of his left ribs, nose and left elbow were broken. Suspect Merz complained of pain to his left temple area and entire body.

Suspect Merz denied being under the influence of any substance during the incident.

Suspect Merz concluded by saying that he was telling the truth about being hit in the face with a flashlight. He did not fall down. He added that he was not struck after being handcuffed.

INVOLVED EMPLOYEE'S STATEMENTS:

Deputies Haines and Ellis were interviewed by Sergeants William Hines and Elier Morejon at Lancaster Station on Tuesday, June 22, 2004, five days after the incident. They both chose to speak with investigators without a representative. Deputy Vensel was interviewed on July 7, 2004, at the Internal Affairs Bureau. Deputy Vensel chose to speak with investigators with a representative from ALADS. Prior to being interviewed all deputies read and signed the Administrative Rights Force Review Form. The interviews were recorded and are summarized as follows:

DEPUTY KEVIN HAINES

Deputy Haines told Internal Affairs Bureau investigators that at the time of the incident, he was assigned to Lancaster Station and a member of the Target Oriented Policing/Special Investigations Detail (TOP/SID). He has been a member for two months. He was working with his partner, Deputy Richard Ellis in Unit 111E1. Deputy Haines was the driver. They started their shift at [redacted] hours.

Deputy Haines and his partner were driving northbound on Cedar Avenue, toward Jackman Avenue. They saw their "sister car," 111E2, turn right on Cedar Avenue from Jackman, following a black Nissan pickup truck. Unit 111E2 conducted a traffic stop on the truck at the intersection of Cedar Avenue and Avenue I. Deputy Haines pulled up behind the unit to assist in the traffic stop. **Refer to Exhibit J-Photographs of Intersection and Exhibit K-Photograph of Suspect's truck**

As Deputy Haines exited his patrol car, he saw Deputy Vensel approach the truck on the driver's side and make contact with the driver. Deputy [redacted] approached on the passenger's side. Deputy Haines noticed that Deputy [redacted] immediately drew his weapon and held it down to his side. This action caused Deputy Haines to believe this situation might be more than a routine traffic stop.

Deputy Haines was approaching as he heard Deputy Vensel order the driver of the truck to shut off the ignition. When Haines was still about fifteen to twenty feet away from Deputy Vensel, the driver of the truck took off across Avenue I. Deputy Haines did not know at this point the reason for the attempted traffic stop.

The suspect drove out onto Avenue I, ignoring traffic, and turned left. All four deputies returned to their patrol cars and drove after the suspect. Once on Avenue I, the suspect pulled to the right lane of traffic where he would stop the truck and then drive forward. The suspect repeated this about three or four times. **Refer to Exhibit L-Photographs of Avenue I**

The suspect again continued westbound and according to Deputy Haines, this gave him time to pull up along the side of the suspect. As they were next to the suspect's truck, both Haines and his partner Ellis, yelled at the suspect to pull over and stop. Deputy Haines said that he recalled that the driver's side window of the truck was down and the suspect looked in their direction and acknowledged them, however, he ignored their orders.

> **IAB Note:** Later in the interview, Deputy Haines said that when he pulled along side of the suspect's truck, he could see the suspect was the sole occupant and was "reaching" and "moving about the interior of the vehicle almost the entire time." Deputy Haines could not recall if the rear window of the truck was tinted.

The suspect then turned right into an empty parking lot. **Refer to Exhibit I-Photographs of Parking Lot**

In referencing his hand drawn diagram, Deputy Haines indicated that he stopped his patrol car just past the mouth of the driveway leading into the parking lot. The patrol car was still basically on Avenue I. **Refer to Exhibit M-Hand drawn diagram by Deputy Haines**

Deputy Haines said that since his partner, Deputy Ellis had exited their patrol car, he stopped and left their car on Avenue I. He explained that he did this because Ellis had exited the car and Haines felt that "it would take too much time to back up and reposition" the patrol car and pull into the driveway. Deputy Haines then exited their car and went to back up his partner.

> **IAB Note:** Later in the interview, Deputy Haines acknowledged that Deputy Ellis did not communicate to him what he was going to do when he first exited the patrol car while still out on Avenue I. Haines said there was no time for Ellis to advise him. When asked if he knew what Ellis was about to do, Deputy Haines said, "Yes I did. He was going to do the same thing I would have done, to try to get to the driver's side of this vehicle as quickly as possible, so we can see his hands and try to get the vehicle stopped. I just know that from working with him. That's what I would have done too." When asked how he would get a moving car stopped while on foot, Deputy Haines said, "You're not going to be able to without some extreme measures. Based on working the area and knowing this parking lot, we know, once he goes in

here, he is somewhat... has no avenue of escape, except for Avenue I. Knowing that we're here and possibly Eddie 2 may have this driveway, there's really no where for the suspect's vehicle to go unless he drives out across the sidewalk or crashes his car through a brick wall. He's going to have to do something really extreme to get out of this parking lot, or he can sit there and do donuts and we'd have to think of different tactics or different measures if he chose that he didn't want to stop." When asked if thought it was a good tactical move for Ellis to leave the patrol car and go after the suspect on foot, Deputy Haines said, "Yes I do. Only because we needed to see this guys hands, I think that's what was important. We see him reaching the whole time, while he's on Avenue I, we see the movement inside of the vehicle. We don't know if he's armed." When then asked if it would have been safer to stay in the car as opposed to getting out and chasing the car on foot, Deputy Haines said, "No, I've been taught, if somebody is going to shoot at your car, it's not a safe place to be, inside the vehicle. Get out and get away from the vehicle." Deputy Haines reiterated that he would have done the same thing as Ellis did. When asked if since the suspect was "trapped" in the lot, would it have been a safer tactic to detain him in the lot and wait for additional units, Deputy Haines said, "Possibly." He was then asked if he would do that today if the same thing occurred and Deputy Haines said, "No," that he would do the same thing as they did during this incident.

The suspect continued driving northbound, toward the back of the parking lot as Deputy Ellis tried to get along the side of the truck, while yelling orders for him to stop. Eventually the suspect stopped the truck and Deputy Ellis was beside the driver's door and Deputy [redacted] was at the passenger's side door. Deputy Haines added that at this point, Deputy Ellis had his gun drawn and held in his right hand, pointed at the suspect, telling him to stop several times. Deputy Haines recalled at some point, Deputy Ellis opened the driver's door and tried to get the suspect out of the truck. Deputy Haines approached and was in a position to the right and just behind Deputy Ellis, both at the open door. Deputy Haines could not see the suspect's face, nor his hands. Deputy Haines added that it wasn't until the suspect was removed from the truck did he ever see the suspect's hands.

Deputy Haines recalled seeing that Deputy [redacted] had entered the passenger's side of the truck, either through the open window or opened door. At that point, Deputy Haines heard Deputy [redacted] yell, "Gun!" Simultaneously, the suspect was leaning toward the center portion of the truck. Deputy Haines said that he feared that [redacted] and the suspect were possibly "wrestling over a gun." He added that he could never see [redacted] inside the truck, however, he knew that the suspect had his back toward them, he was reaching for something in the center of the truck and there was movement inside the truck.

After hearing "gun" and believing that [redacted] and the suspect were wrestling over a gun, Deputy Haines said he considered shooting the suspect at that point. However, since Ellis and [redacted] were inside the truck, Haines knew there was a possibility of a cross-fire and chose not to fire. Deputy

Haines, instead, reached in next to Ellis and struck the suspect five to six times in the left arm and elbow with his flashlight. At that point, Haines recalled that Ellis, "removed himself from the truck, just for a split second." Up to this point, Deputy Haines said he had not known that the suspect was seatbelted in the truck, when Ellis came up with a knife and cut the seatbelt, enabling them to pull the suspect out of the truck.

what were they pulling him by? Vensel had leg.

According to Haines, as the suspect was pulled from the truck, he immediately reached for his waistband with both hands, prior to going to the ground. Deputy Vensel was near the suspect's head and shoulders. Deputy Haines said he was still in fear that the suspect possibly had a gun, so Haines struck the suspect four to five times with his flashlight on the suspect's lower back, while Deputy Vensel obtained control of the suspect's left arm. The flashlight strikes caused the suspect to bring his right hand out from under him and either Deputy Ellis or Haines handcuffed the suspect. Haines was not sure who actually handcuffed the right hand.

why didn't P. put all this stuff in his 49?

Deputy Haines conducted a pat-down search of the suspect for weapons, however, he did not find any. Paramedics were requested and later Deputy [redacted] located an empty holster inside the truck. Later an additional holster and narcotics were found inside the truck, however, Haines could not recall which deputy found these items.

Sergeant Sylvies came to the scene and the force was reported to him. After the suspect was treated at the scene, Deputies Haines and Ellis transported the suspect to the hospital for treatment and approval for booking.

Follow-up questions:

Regarding the position of his patrol car, Deputy Haines was not sure who moved it or at what point it was moved. He thought that Deputy Vensel moved it, but he was not sure. He did recall that the patrol car was not moved until after the suspect was handcuffed and the situation was "Code 4." Deputy Haines could not recall were Unit 111E2 was parked during this incident. He later saw it parked behind the suspect's truck, but he did not recall when it was placed in that position.

Regarding their activities prior to the attempted traffic stop, Deputy Haines said they were leaving the Station and had met with Deputies Vensel and [redacted] and they had told them about the black truck in the area that was involved in narcotics transactions. Their plan was to go on routine patrol and they essentially drove directly toward the area of Cedar and Jackman. The first time Haines saw the black truck, it had just turned northbound on Cedar Avenue from eastbound Jackman. At that point, 111E2 was headed west and made a right turn onto Cedar. Deputy Haines was northbound on Cedar at the time. Deputy Haines did not know at what point, Deputies Vensel and [redacted] saw the black truck.

When asked, Deputy Haines agreed that he earlier said that he had not known the reason for the traffic stop and he wasn't sure if this was in fact the truck that they had earlier discussed. Additionally, Deputy Haines said he wasn't exactly sure of the status of the truck. He only knew

transactions

that the truck might be involved in some type of narcotics related activity. As far as Deputy Haines was concerned, this was a routine traffic stop. How can it be?

When asked why he pulled up beside the suspect's truck, Deputy Haines answered, "Because he wasn't going very fast. Again, he was stop, go, stop, go. I didn't want to play leap frog, westbound on Avenue I for who knows how long, and we had no... there wasn't very many cars behind us at the time when this initially happened." Deputy Haines was then asked if he felt it was a safe tactic to pull up beside a suspect's vehicle in that manner. Deputy Haines replied, "Based on what we're trained, it's probably not a safe tactic." He added that although he had not been trained to do that, they might have avoided a pursuit by doing so.

Deputy Haines estimated that the suspect drove about forty to fifty feet into the parking lot before coming to a stop. The suspect was stopped prior to Deputy Haines arriving at the driver's side door, next to Ellis. Haines did not see which hand Ellis used to open the door.

When specifically asked, Deputy Haines did not see Deputy Ellis pull the suspect out of the truck, striking the suspect's head on the windshield frame. Deputy Haines acknowledged that he saw blood on the suspect when the suspect was still in the car, however, he could not recall at what point.

Regarding the position of the suspect during the flashlight strikes, Deputy Haines said the suspect was seated in the truck, turned to his right, leaning toward the center of the truck. Deputy Haines could only see the suspect's back and left arm at the time. Deputy Haines originally had his weapon drawn as he approached the suspect, however, due to the proximity of the other deputies, he re-holstered his gun. He then reached into the truck, with his flashlight in his right hand and jabbed the suspect with the butt of his flashlight. Deputy Haines said he would have been unable to swing his flashlight at the suspect because there was no room. He further described the strikes as holding his right hand at a right angle, horizontal to the ground and jabbing outward. The jabs struck the suspect's left triceps and elbow area. He could not recall striking the suspect's side.

Deputy Haines acknowledged that there was no communication with Deputies Vensel and [redacted] advising them that he was going to pull along the side of the suspect. Additionally, Haines acknowledged that there was no radio traffic or broadcast regarding this attempted traffic stop. He added that there was no time to do so. Deputy Haines estimated that it was about fifteen to twenty seconds between the time of the original attempted stop on Cedar Avenue until the complete stop in the parking lot.

Deputy Haines said he did not recall that Deputy Ellis told him to pull up next to the suspect. Haines said that he recalled that it was his own actions. Deputy Haines acknowledged that Ellis might have told him to do it and he just possibly didn't hear him.

Deputy Haines could not recall the position of Deputy Vensel during the flashlight jabs.

It was Deputy Haines' opinion that the suspect sustained the injury to his nose when it struck the windshield frame as he was being pulled from the truck. This opinion was based on what Deputy

Ellis told him, not by actually seeing it occur. Deputy Haines heard this during the reporting of the force to Sergeant Sylvies.

Deputy Haines was asked at what point this incident became more than just a routine traffic stop and he said, "When the guy busted the intersection and went westbound on Avenue I. After Deputy Vensel had told him stop the car, shut the car off and he drives out into traffic. I think at that point, it escalated very quickly."

When asked, Deputy Haines answered that there was no possible way that his flashlight strikes could have struck the suspect's face. He explained that the suspect's position would not have allowed that to occur. Deputy Haines could not recall if Ellis had a flashlight during the incident. Deputy Haines said that he did not strike the suspect's face with a flashlight, nor did he see any deputy strike the suspect's face with a flashlight.

Deputy Haines was asked if after the suspect was handcuffed and when he saw the blood on the suspect if he wondered where the blood was coming from or how the injuries occurred. Deputy Haines said, "He was bleeding from the face. It was totally obvious. He was dripping blood when he came out of the car. Like I said, before he came out of the car I knew he was bleeding. How he got that injury, it wasn't a concern for me at the time. I was 'amped up.' I thought we were going to be confronted with the deadly force situation. I didn't care. I just knew according to our job and what we do, I had to get some medical attention, which is what I did. I got on the radio and communicated to SCC that we had a suspect with head injuries. I don't know how he sustained his head injures. I could just see that he was bleeding from the face." According to Deputy Haines, there was no discussion on how the suspect sustained his injuries prior to Sergeant Sylvies arrival. Regarding who pulled the suspect out of the vehicle, Deputy Haines said, "I don't know exactly who pulled him out and I don't remember grabbing him and pulling him out of the car, and I believe that's when I remember Vensel being behind us. I think he assisted Ellis in removing the suspect from the car more so than myself." Deputy Haines believed that the position of Vensel was between him and Ellis. Deputy Haines recalled that his right side was against the driver's side door pillar and the only logical place for Vensel to be was between them, but he was not sure. Deputy Haines did not recall seeing Vensel grab the suspect, however, when the suspect came out of the car, Vensel "had some control of the suspect." c.f. p. 9

Regarding his position while striking the suspect with a flashlight while on the ground, Deputy Haines related that he was between Ellis, who was near the suspect's feet and Vensel, who was near the suspect's head. The flashlight strikes while on the ground were overhand strikes and not jabs. Deputy Haines was on one knee at the time and facing the truck.

Deputy Haines was asked at what point he notified Sergeant Sylvies regarding the force used on the suspect and Haines said, "It was just a few moments after he arrived."

> **IAB Note:** A little later in the interview, Deputy Haines said that he was directing his attention to the suspect and was not the first deputy to report force to Sylvies, however, he could not remember who was the first deputy to report force. Haines

then guessed that he was one of the last deputies to report force. When pointed out that he early had said that he reported his force to Sylvies within "moments" of his arrival, Deputy Haines said, "It was while we were still in the parking lot." When asked to estimate how long after Sergeant Sylvies' arrival, he reported his force, Deputy Haines said, "Maybe five minutes. I'm not sure. I remember Steve taking some pictures, I think, before I had an opportunity to tell him what happened." Haines was not sure, but thought that paramedics arrived before Sergeant Sylvies.

At the conclusion of the interview, when asked if he had anything to add, Deputy Haines related that while at the hospital with the suspect, the suspect refused treatment and told the staff that he injured his nose by falling on the pavement. He told the staff that he was a "bleeder."

When asked, Deputy Haines said that while at the scene, it was his opinion that the suspect's nose was broken. He based that opinion on the amount of blood. He added that he didn't know if the blood was from a cut or from the nostrils. Deputy Haines acknowledged that the suspect did not fall down at the scene.

Refer to Exhibit C-Supplemental Report written by Deputy Haines and Exhibit M-Hand drawn diagram by Deputy Haines

DEPUTY RICHARD A. ELLIS

Deputy Ellis told Internal Affairs Bureau investigators that at the time of the incident, he was assigned to Lancaster Station and a member of the Target Oriented Policing/Special Investigations Detail (TOP/SID). He has been a member for about seven years. He was working with his partner, Deputy Kevin Haines in Unit 111E1. Deputy Ellis was the bookman. They were in a marked patrol unit and were wearing Class B pants, green polo shirt with the Sheriff's insignia and an exterior vest.

Deputy Ellis and his partner were on patrol, northbound on Cedar Avenue at Jackman Avenue. Deputy Ellis saw another patrol unit turn from westbound Jackman to northbound Cedar just ahead of them. They followed the unit in case it needed back-up on the traffic stop. Deputy Ellis saw the unit make a traffic stop on a pickup truck as it was at the stop sign at Avenue I. He saw Deputies Vensel and [redacted] approach the truck. Deputy Ellis and his partner also exited and approached. Deputy Ellis saw Vensel approach the driver's side and [redacted] approached the passenger's side. As Deputy Vensel reached the driver's door, the truck accelerated into the intersection and crossed Avenue I. Deputy Ellis said that he could not tell if anything was said between Vensel and the driver of the truck, but it appeared that Vensel had made contact with the driver and the driver refused to talk to him.

When asked, Deputy Ellis said he did not know the reason for the traffic stop.

Deputy Ellis immediately thought the traffic stop was going to turn into a pursuit. He and Haines immediately returned to their patrol car as Vensel and [redacted] ran back to their patrol car.

IAB Note: When asked, Deputy Ellis acknowledged that he still did not know at this point, the reason for the traffic stop. There was no communication between any of the deputies at this point.

They then drove after the truck and Deputy Ellis could see that the suspect had turned left on Avenue I, crossing two lanes of traffic. The suspect was now westbound on Avenue I, near the north curb line. Deputy Ellis saw that the suspect's driver side window was down and he then thought he saw a "glint"or "flash" of something behind the truck. Deputy Ellis was not positive, but he felt the suspect might have tossed something out. Deputy Ellis added that he did not see any arm movement by the suspect at that time.

The truck continued to travel westbound at a very slow rate of speed, next to the curb line. Deputies Vensel and [redacted] took a position behind the suspect and Deputies Ellis and Haines took a position behind them. After a short distance, at a speed of five to ten M.P.H., Deputy Ellis told Deputy Haines to pull up along side of the suspect. Deputy Ellis explained the reason for this move was because the suspect was doing what was called "the slow roll" which is done by dopers when they don't want to immediately pull over because they are trying to hide something inside the car before the police approach. Deputy Ellis could not see if the suspect was trying to hide anything and Deputy Ellis said he was not sure if the suspect knew they were even behind him.

not good justification

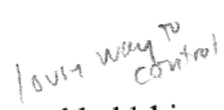
leap frogged Vensel car

IAB Note: Deputy Ellis acknowledged that he still did not know at this point, the reason for the traffic stop. He added that there was some earlier information about a similar vehicle, however, he was not "privy" to it. Later in the interview, Deputy Ellis said he did not realize that this truck was in fact the one that had been earlier discussed by Deputy Haines as possibly being involved in narcotics.

As they pulled along the side of the suspect's truck, Deputy Ellis made eye contact with the driver and yelled at him to stop the truck. The suspect immediately turned right and into an empty parking lot and Deputies Vensel and Ellis pulled in behind the suspect. Deputy Ellis said he and his partner pulled in beside the other unit. The suspect continued to roll at a slow speed.

IAB Note: Based on statements by Deputies Vensel, Haines, and [redacted] Deputy Vensel did not immediately turn into the parking lot, nor did Deputy Haines. They both stopped on Avenue I before they pulled into the parking lot, and only after Deputies Ellis and [redacted] had jumped from their respective cars and ran after the suspect's truck.

Deputy Ellis said the suspect continued straight in the parking lot at a slow speed in the parking lot and his unit was behind and to the left of the suspect's truck and Haines and [redacted] unit was to the right, more on the truck's passenger side. Deputy Ellis said he then exited his patrol car and ran up to the driver's side door of the truck. Deputy Ellis pointed his gun, which was in his right hand, at the driver and ordered him to stop the vehicle. The suspect stopped abruptly. The suspect's hands were near the lower portion of the steering wheel. Deputy Ellis opened the door and with his left hand, grabbed the suspect's shirt near the left shoulder. Ellis said he did this in order to control the



driver and hold him. Ellis ordered the driver to keep his hands in sight. According to Ellis, the suspect looked confused as what to do with his hands. Deputy Ellis said that as he was about to extract the suspect from the truck, Deputy [redacted] arrived on the passenger's side, just outside the door. Deputy Ellis started to re-holster his weapon when he heard Deputy [redacted] yell, "Gun!" At the same time, Deputy Ellis saw the suspect turn away from the driver's side and reach toward the center console of the truck's seat. The suspect was reaching in an area of the seat that is a recessed alcove in front of the bench seat. There was also a fold-down arm rest in the middle of the seat. Deputy Ellis saw Deputy [redacted] start to reach in through the open passenger's side window, then stopped and backed out. This was at the same time that the suspect was reaching toward the center console.

It was Deputy Ellis' opinion, that at this point, Deputy [redacted] had seen a gun and started to reach in for it at the same time that the suspect started to reach for it and that there was about to be a fight over the gun. Deputy Ellis could not see a gun at this time because the suspect had turned to his right and was blocking the view.

Deputy Ellis had already re-holstered his weapon at this point. He then reached up and grabbed the back of the suspect's shirt with both hands and pulled him "fairly hard." At this point, Deputy Ellis volunteered, "There is a lot to be said for adrenalin, just yanked him out, I was trying to get him away from Deputy [redacted] I was trying to keep him from possibly grabbing a gun." He added that he wasn't sure if [redacted] was going to shoot the suspect, since [redacted] had taken a half step back. Deputy Ellis starting pulling the suspect out of the truck. Ellis did not know where Deputy Haines was standing at the time, however, he knew someone was standing behind him, who he believed was Haines.

As he had the suspect's upper body about half-way out, Deputy Ellis said that he could tell that the suspect had "kinda hit the door post, the forward part of the door post, and it seems like he has hit it with his head."

> **IAB Note:** After a short discussion at this point in the interview, Deputy Ellis agreed that the suspect hit the driver's side of the windshield frame. **Refer to Exhibit N-Photographs of Windshield Frame** Also refer to **Exhibit X-Photographs of Suspect's Truck and blood**

Deputy Ellis continued, "He seems to hit that as I yank him out." When asked to explain "seems to hit it," Deputy Ellis said, "Well, I was behind him. I'm pretty sure he hit it." When asked what part, he said, "His face." Deputy Ellis added that when he first started to pull the suspect out, he was met with some type of resistance. After the suspect hit his face, he appeared "stunned" which would be consistent with hitting his face. Deputy Ellis realized that he could not get the suspect out of the truck, because the seatbelt was still around the suspect. Deputy Ellis then reached in behind the suspect to release the belt and as he did that, the suspect moved back into the truck and sat back into place. Deputy Ellis was unable to reach the seatbelt release button, so he pulled his knife from his vest and cut the seatbelt near the shoulder area. **Refer to Exhibit O-Photograph of Cut Seatbelt**

Although this action released the resistance the suspect started to struggle again by trying to stay in the truck. He defined struggle as, "He was resisting being pulled from the truck." He added that the suspect was not throwing any punches.

> **IAB Note:** When asked, Deputy Ellis said he could not remember what he did with his knife after he cut the seatbelt. He said he might have tossed it on the seat of the truck or he might have just folded it up and put it back in his pocket. Also when asked, Deputy Ellis said that the suspect was still seated when his face hit the windshield frame. Later in the interview, Deputy Ellis said that it was at this time, that he first saw blood on the suspect and the interior of the truck and just outside the door.

As the suspect continued his struggle to remain in the truck, Deputy Ellis continued to pull on the suspect. There was another deputy behind Ellis assisting him and together they pulled the suspect out of the truck and onto the ground.

> **IAB Note:** Deputy Ellis said that he knew a deputy was behind him, but he did not know for sure at the time, who that deputy was. He thought it was Deputy Haines based on the position of Deputy Haines when the suspect was finally pulled from the truck. Deputy Ellis said he did not know where Deputy Haines had a hold of the suspect, when the suspect was pulled from the truck. He also thought that Deputy Vensel assisted in pulling the suspect out of the truck. Deputy Ellis said he thought this because the suspect was "pulled out of his hands." During Deputy Haines' interview, Haines said he did not recall pulling the suspect out of the truck.

Once on the ground, Deputy Ellis said he was near the suspect's feet and he saw Deputy Haines near the suspect's back. The suspect was face down at the time, with his arms tucked underneath him. As Deputy Haines controlled the suspect's upper body, Deputy Ellis knelt down on the suspect's feet and drew his gun. Deputy Ellis said he did this, believing the suspect might still have a gun tucked in front of him. Deputy Ellis had complete control of the suspect's feet and legs at this time. Deputy Haines ordered the suspect to show his hands several times. The suspect ignored the orders and stayed face down on the ground with his arms tucked under his chest area. Deputy Ellis saw Deputy Haines strike the suspect on the left side of the upper body or arm, four or five times with his flashlight. The suspect immediately yelled something about his back and pulled his arms out from underneath him. The hands were empty. A short time later, the suspect was handcuffed. Once Deputy Haines moved away from the suspect, and he was stood up, Deputy Ellis could see blood "all over the place." saw 2nd set of strikes

According to Deputy Ellis, Deputy Haines' knees were on the suspect's back and his feet were on the right side of the suspect's body when Haines was striking the suspect's left side. Haines had his flashlight in his right hand. The suspect's head was facing south at the time. Deputy Ellis could not recall where Deputy Vensel was at the time they were on the ground with the suspect.

Follow-up questions:

Deputy Ellis estimated that it was about seven to eight seconds from the time he first grabbed the suspect until the suspect was down on the ground. Deputy Ellis estimated that once on the ground, it took about eight to ten seconds to handcuff the suspect. He estimated the entire incident occurred in about fifteen to twenty seconds.

Deputy Ellis acknowledged that when Deputy Haines used his flashlight to strike the suspect while on the ground, the suspect had his hands underneath his chest area.

Deputy Ellis did not recall where Deputy Haines was standing when he heard [redacted] yell, "Gun!" He explained that he had "tunnel vision" at the time. Deputy Ellis could not recall if he had a flashlight during the incident.

When asked, Deputy Ellis acknowledged that there was no prior communication or plan regarding the original stop of the truck. They were just on routine patrol prior to the traffic stop.

Deputy Ellis was specifically asked if he felt that the action of pulling up next to the suspect's truck was a good tactical position to be in, since he did not know the reason for the traffic stop. Deputy Ellis replied, "No, it appeared to be a routine traffic stop, by the way the deputies approached initially." He was then asked if he thought it was a routine traffic stop and he answered, "Absolutely! Certainly it wasn't something that seemed to be 'high risk.' I've been working with Deputy Vensel for quite some time and know that he's not going to John Wayne it and just walk up on something that he might think the driver was 417 or was wanted for some type of violent crime or anything."

> **IAB Note:** Later in the interview, Deputy Ellis was asked if the fact that the truck sped away from Deputy Vensel, led him to believe that this was **not** a "routine" traffic stop at that point. Deputy Ellis related that he couldn't tell from his position. He was then specifically asked again, even if this was only a routine traffic stop, why he would ever pull along side of a car that he was trying to make a traffic stop on. Deputy Ellis said, "I just wanted to make sure that he had no excuse for knowing that the deputies were trying to pull him over, you know, I've had several incidents where the person was deaf, or the person was just old, or the person was HUA, drunk, whatever it was and just didn't seem to notice that the deputies were behind them. I think we've all seen instances or had instances where you've gotten behind people, and even hitting the siren, they don't seem to acknowledge you at all."

When asked at what point this incident did turn into a "high risk" situation, causing him to draw his gun, Deputy Ellis said, "For me it was when we pulled up along side him and I told him to stop the car and he looked at me and acknowledged me, he was looking straight at me, and then just turned and went into the parking lot and continued to roll."

high risk but he runs up

IAB Note: Later in the interview, Deputy Ellis was asked why, if at this point, when he did consider this to be a "high risk" situation, would he run up to the suspect's truck versus doing a felony stop or just ordering the suspect to raise his hands. Deputy Ellis said, "It seemed like the thing to do. I wanted to see what he was doing. I wanted to see his hands." He added, when asked, that he had not been trained to do that.

When asked, Deputy Ellis acknowledged that he opened the suspect's door, prior to hearing Deputy [redacted] yell, "Gun." He added that he had already had a hand on the suspect and had re-holstered by the time he heard, "Gun."

Deputy Ellis said he did not recall seeing Deputy Vensel have his hands on the suspect, nor did he recall seeing Deputy Vensel pulling on the suspect's legs. Deputy Ellis only recalled that "somebody" helped him pull the suspect out after the seatbelt was cut.

Deputy Ellis was asked if he reported witnessing flashlight strikes to Sergeant Sylvies and he said, "Yeah." When asked when he told Sergeant Sylvies about the flashlight strikes, Deputy Ellis said, "Within just a couple of minutes after he got there." He further explained that they were all standing around the suspect, who was being treated by paramedics at the time, when the flashlight strikes were mentioned.

Deputy Ellis was shown a photograph of the suspect taken shortly after the incident, and it was his opinion that the suspect sustained only a bloody nose during the incident. Deputy Ellis said he wasn't sure of the suspect's nose was cut. Deputy Ellis did not recall telling Sergeant Sylvies that he only pushed the suspect forward. He said he explained to Sergeant Sylvies that it was an arcing motion when the suspect was pulled from the truck.

Deputy Ellis did not recall seeing Sergeant Sylvies on the phone at the scene.

Regarding flashlight strikes to the suspect while the suspect was still seated inside the truck, Deputy Ellis said that he did not see any flashlight strikes nor did he hear any. He explained that his back was to the other deputies until the suspect was pulled from the truck and onto the ground.

didn't see strikes in truck.

Regarding his report, where he wrote "released" the seatbelt, Deputy Ellis was asked why he didn't write "cut" the seatbelt, and he said that he didn't think it needed that much detail.

When asked, Deputy Ellis said that he did not strike the suspect in the face or any other part of his body with a flashlight, nor did he see any other deputies hit the suspect in the face with a flashlight.

Deputy Ellis was asked if he told Sergeant Sylvies that the suspect had hit his face on the windshield frame and he answered, "I believe so. Yeah, I'm pretty sure I did."

Deputy Ellis acknowledged that there was no radio traffic put out regarding this incident.

Deputy Ellis was asked if it would have been possible for another deputy to strike the suspect with a flashlight while the suspect was still seated in the truck without Ellis actually seeing the flashlight strikes. Deputy Ellis said it would have been possible, since there was room for another deputy to stand next to him and strike the suspect's left side, while Ellis was facing another direction.

When asked, Deputy Ellis said that when he was cutting the seatbelt, Deputy [redacted] was just opening the passenger's side door and coming inside. Ellis did not recall seeing that [redacted] had his gun drawn at the time.

At the conclusion of the interview, we went off the record and Deputy Ellis sketched a hand drawn diagram of the scene. We later went back on the record and in reference to that diagram he pointed out that he actually exited his patrol car while it was still on Avenue I. The patrol car was just coming to a stop and the suspect's car was still slowly moving.

> **IAB Note:** Earlier in the interview, Deputy Ellis had indicated that they pulled into the parking lot behind the suspect prior to Ellis exiting their patrol car. Deputy Ellis did not have an explanation as to why he didn't stay inside the car and continue following the suspect into the parking lot.

Deputy Ellis was asked if he ever had a conversation with Lieutenant Fullerton about this incident and said that he did. When asked to describe the conversation, Deputy Ellis said, "I approached him and asked him if he heard about the use of force. I wanted to make sure he was up to speed on it. Before I tried to explain anything to him, he said, 'Yeah, Sergeant Sylvies ran it all by me. He says this guy hit his face against the edge of the car on the way out, and he's got some face trauma.' And, I go, 'Yeah.'" According to Ellis, Lieutenant Fullerton added, "Yeah, I heard all about it." Deputy Ellis said, "That was about it. I just want to make sure that Sergeant Sylvies had run things by him." Deputy Ellis was then asked if Lieutenant Fullerton had mentioned that he understood that the suspect had been struck with a flashlight. Deputy Ellis said, "No, he kind of cut me off, just letting me know that he had talked to Sergeant Sylvies." He added it was a very brief conversation.
When asked if he specifically told Lieutenant Fullerton that the suspect had been struck with a flashlight, Deputy Ellis said, "No." When asked why not, Deputy Ellis said, "It sounded like he heard everything from Sergeant Sylvies. He kind of cut me off short and didn't sound like we were going to discuss the entire incident. It sounded like he had heard it from Sergeant Sylvies and so, I was good with that." It was Deputy Ellis' belief at that point that Lieutenant Fullerton was already aware of the flashlight strikes.

Refer to Exhibit D-Supplemental Report written by Deputy Ellis and Exhibit P-Hand drawn diagram by Deputy Ellis

DEPUTY JOHN D. VENSEL

Deputy Vensel requested John Birke, from Green and Shinee, represent him during the interview. Deputy Vensel told Internal Affairs Bureau investigators that at the time of the incident, he was assigned to Lancaster Station and a member of the Target Oriented Policing/Special Investigations

Detail (TOP/SID). He has been a member for about four months. He was working with his partner, Deputy [redacted] in Unit [redacted] Deputy [redacted] was the bookman.

Deputy Vensel and his partner were driving back to Lancaster Station when Deputy Vensel saw a black truck at the corner of Cedar Avenue and Jackman Avenue. Vensel had knowledge that the driver of the truck was known to sell narcotics. Additionally, the house on the northwest corner was also known to Deputy Vensel to be involved in narcotics. Deputy Vensel had acquired that information through other narcotics arrest in the past. Deputy [redacted] ran the plate and it came back expired registration. They continued to the Station to book a suspect.

After completing the booking of their suspect, they left the Station and drove westbound on Jackman Avenue to the area where the truck was last seen. As they neared the intersection, the truck was parked southbound in front of the house at the northwest corner of Cedar and Jackman. Deputy Vensel saw the driver, later identified as Suspect Merz, of the black truck make a "three-point turn" and drive away, northbound on Cedar Avenue. Since they knew the plate was expired, they planned to make a traffic stop on the truck. Deputy Vensel also noticed that the plate on the truck had current registration tabs. Deputy Vensel made a right turn on Cedar and followed the truck northbound. About mid-block, Deputy Vensel activated his forward red lights and the truck stopped at Avenue I, not near the right curb.

> **IAB Note:** When asked, Deputy Vensel said the reason for the stop was the expired registration and misuse of tags. He said that if the truck would have had proper registration, he would not have attempted the traffic stop. He felt that he did not have enough information regarding the narcotics to give him probable cause to stop the truck.

After the truck stopped, Deputy Vensel approached on the driver's side and Deputy [redacted] approached on the passenger's side. Through the open window, Deputy Vensel told Suspect Merz to turn the ignition off. Merz turned and looked at him and "mumbled" incoherently. Merz then looked forward and checked the traffic on Avenue I. Again, Vensel ordered him to turn off the truck. Merz ignored him and pulled out into the intersection and turned left.

Deputies Vensel and [redacted] ran back to their patrol car and as they did, Vensel saw Deputies Haines and Ellis directly behind them. Everyone returned to their respective patrol cars and followed the truck.

After turning left on Avenue I, Suspect Merz pulled into the "slow lane" and slowed down to almost a stop. Deputy Vensel pulled in behind Merz, however, Merz drove off again. Merz repeated this action of stopping and starting, about three or four more times. As Merz was doing this, Deputy Vensel could see that Merz was moving around inside the truck and appeared to be doing something "weird like stuffing or hiding." Deputy Vensel added that he could see these actions even though the rear window of the truck was tinted.

After a short distance, Deputies Haines and Ellis passed Vensel and [redacted] and pulled up next to the suspect. As they did that, the suspect immediately turned right into a large empty parking lot. Deputies Haines and Ellis stopped near the entry of the parking lot, still on Avenue I, and both jumped out of their patrol car. Deputy Vensel stopped just behind them a short distance and Deputy [redacted] jumped out. At this point, Deputy Vensel said he was thinking that he should stay in the patrol car in case the suspect tried to drive away. Deputy Vensel saw that the suspect stopped and Deputies Ellis, [redacted] and Haines ran up to the truck. Deputy Vensel then pulled in behind the suspect and stopped. As Deputy Vensel exited his patrol car, he saw Deputy [redacted] approach the truck on the passenger's side and Deputies Haines and Ellis approached on the driver's side. Deputy Vensel said he was still in his patrol car as Haines, Ellis and [redacted] reached the truck.

Once Deputy Vensel stopped and exited his patrol car, he ran up on the passenger's side of the truck. As he reached that side, he heard Deputy [redacted] yell, "Gun!" At the same time, Deputy Vensel could hear that Ellis and Haines were struggling with the suspect. This was indicated by the movement of the truck. Deputy Vensel immediately ran behind the truck toward the driver's side, where he saw Ellis and Haines struggling with the suspect. Deputy Vensel said that he was thinking that they were struggling over a gun. Since Ellis and Haines were at the open driver's door, the only part of the suspect in view was his left leg. Deputy Vensel then "squatted" down and reached in and grabbed Merz' leg. As he did this, he could hear Deputy Ellis ordering the suspect to show his hands and get out of the truck. Deputy Vensel pulled on the suspect's leg, while Deputies Ellis and Haines were struggling with Merz above him. Vensel could feel that the suspect was resisting coming out of the truck.

As he continued to pull on Merz' leg, Deputy Vensel heard a "clunk" and he looked up and saw Suspect Merz' face near the "pillar of the door." Deputy Vensel said he "figured" the suspect had just hit his head. Deputy Vensel did not see Merz' face strike the pillar.

> **IAB Note:** At this point in the interview, Deputy Vensel said that he later talked to the other deputies and they told him that the suspect had in fact hit his face on the pillar. Later in the interview, he explained that the "pillar" was the left side of the windshield frame.

Deputy Vensel said they were finally able to pull the suspect out of the truck and onto his stomach on the ground. Deputy Vensel continued to wrestle with Merz' feet for a few seconds. Deputy Vensel vaguely recalled that he was "bumped" out of position by Deputy Ellis, so he went up to the suspect's head area and straddled the suspect's shoulder area. In that position, Deputies Haines and Ellis were behind Vensel. Vensel could hear orders for the suspect to put his hands behind his back. At some point, Deputy Vensel saw the suspect's left hand come out. Vensel handcuffed the suspect's left hand and together with Ellis and Haines, they handcuffed the suspect.

After Merz was handcuffed, he was sat up and Deputy Vensel saw that Merz' nose was bleeding. Paramedics were requested and Sergeant Sylvies was requested to the location. Once Sergeant Sylvies arrived, they reported their use of force to him.

Follow-up questions:

Regarding the location of the original traffic stop, Deputy Vensel said he didn't think there was any reason to wait for the suspect to pull out on Avenue I before initiating the traffic stop. He felt the suspect had enough time to stop on Cedar Avenue. Deputy Vensel also felt that it was tactically safer to make the stop on Cedar as opposed to Avenue I, which is a busier street. Deputy Vensel said he did not have his weapon drawn when he originally approached the truck. He said that he would not normally draw his weapon on a regular traffic stop. He did not know if Deputy [redacted] had his weapon drawn at the time.

According to Deputy Vensel, he had a conversation with Deputies Haines regarding the truck, just prior to the incident. Deputy Vensel could not recall where he specifically received the information on the driver of the truck other than through his prior narcotics arrests.

Deputy Vensel did not see a gun at the time that he heard Deputy [redacted] yell, "Gun!" At the time, Vensel did not have a clear view inside the truck.

When specifically asked, Deputy Vensel said that the suspect was in the process of being pulled from the truck when he head the "clunk." The suspect was not completely out of the truck yet and his butt was still on the seat.

Deputy Vensel said that he did not see any deputy strike or jab the suspect with a flashlight, at any time during the incident, nor did he strike or jab the suspect with a flashlight.

Deputy Vensel estimated that it was approximately fifteen to thirty seconds from the time he heard, "Gun!" until the suspect was handcuffed. He estimated that it was about three seconds from the time he heard, "Gun!" until he ran to the driver's side and started to pull on the suspect's leg.

When asked, Deputy Vensel said he had no doubt that the suspect knew that Vensel was a "cop." Also when asked, Deputy Vensel said he did not know why Deputies Haines and Ellis passed them during the attempted traffic stop on Avenue I. There was no communication or plan between them, directing them to pass.

Regarding the cutting of the seatbelt, Deputy Vensel did not know until later that it had been cut.

When asked, Deputy Vensel said he did not see the suspect actually throw any punches at Deputies Haines or Ellis, however, Vensel's view was blocked by the deputies.

Regarding the reporting of force to Sergeant Sylvies, Deputy Vensel recalled that Sergeant Sylvies arrived at the scene prior to the paramedics. When the force was reported, it was done individually not collectively. Deputy Vensel could not recall the order in which the deputies reported their force. Deputy Vensel said that he did not ever punch, strike, knee or kick the suspect, nor did he ever see any deputy do that. Deputy Vensel said it wasn't until later, at about the time they left the scene or possibly back at the Station, did he learn that the suspect was struck with a flashlight.

Didn't see any flashlight strikes.

When pointed out that the suspect sustained a broken nose, three ribs and a elbow, Deputy Vensel said that he had heard later that the suspect had sustained those injuries. It was Vensel's opinion that the suspect's nose was possibly broken as indicated earlier, by striking the windshield frame. Regarding the broken ribs and elbow, Deputy Vensel said that he did not see how the suspect sustained those injuries, but later read in the reports that the suspect was struck in those areas with a flashlight and that could have caused the injuries.

Refer to Exhibit B-Supplemental Report written by Deputy Vensel and Exhibit Q-Hand Drawn Diagram by Deputy Vensel

WITNESS STATEMENTS:

DEPUTY [redacted]

Deputy [redacted] told Internal Affairs Bureau investigators that at the time of the incident, he was assigned to Lancaster Station and a member of the Target Oriented Policing/Special Investigations Detail (TOP/SID). He has been a member for about four months. He was working with his partner, Deputy John Vensel in Unit [redacted] Deputy [redacted] was the bookman.

Deputy [redacted] and his partner were on patrol in Lancaster, driving westbound on Jackman Avenue approaching Cedar Avenue. They were checking a house on the northwest corner which is known to have a high level of narcotic activity. They had been checking the house for about the past two weeks. Deputy Vensel pointed out a black truck they had been looking for which was associated with the house. Deputy [redacted] saw the truck pulling away from the house. They ran the plate and it came back expired over a year.

> **IAB Note:** Later in the interview, Deputy [redacted] related that he had information that the driver of the black truck at this particular location was known to sell methamphetamine. [redacted] and his partner had obtained that information through the normal course of their duties and patrolling the area.

They decided to stop the truck for the violation and issue a citation. The truck yielded northbound on Cedar Avenue at Avenue I. According to Deputy [redacted] the truck pulled to the right side of the street. Deputy [redacted] approached on the passenger's side and Deputy Vensel approached on the driver's side. As they reached the truck, Deputy [redacted] saw that there was no one else inside the truck and he could hear Deputy Vensel tell the driver to turn the ignition off. Deputy [redacted] saw that the driver was not acknowledging Deputy Vensel. Deputy [redacted] felt that "something was up." He watched the driver lean forward over the steering wheel and look left and right. Deputy [redacted] thought the driver was going to "bolt" straight across Avenue I. Deputy Vensel asked the driver a second time to turn off the truck. The driver looked directly at Deputy Vensel and then accelerated across the street, nearly causing a collision.

Both Deputies ran back to their patrol car and as they did, Deputy [redacted] saw Deputies Haines and Ellis for the first time, directly behind them. Deputies Vensel and [redacted] drove after the truck and Deputies Haines and Ellis followed.

As they followed the suspect, the suspect would slow the truck and almost stop and then start again. He did this a few times and as he did it, Deputy [redacted] could see the suspect moving around inside the truck and felt that the suspect was trying to "get rid of some dope." The suspect drove a short distance and then turned right into a parking lot. The suspect drove another thirty to forty feet and stopped. As soon as the suspect turned into the lot, Deputy [redacted] had his door open and ready to exit the patrol car. Deputy [redacted] also saw the other patrol car just in front of them.

> **IAB Note:** At this point, Deputy [redacted] referred to a hand drawn sketch that he drew of the location showing the positions of the two radio cars and suspect's car. **Refer to Exhibit R-Hand Drawn Diagram by Deputy [redacted]**

Deputy [redacted] exited the patrol car at the mouth of the parking lot entrance and Deputy Haines stopped just in front of them, also at the lot entrance. Deputy [redacted] saw Deputy Ellis run across the front of [redacted] patrol car, northbound after the suspect's truck and [redacted] followed on foot.

Deputies [redacted] and Ellis approached the suspect's truck which had stopped a short distance into the parking lot. Deputy [redacted] approached on the passenger's side and Deputy Ellis approached on the driver's side.

When asked what he felt the nature of the vehicle stop was at this point, Deputy [redacted] said, "I think we have dope, I think we have narcotics, I think we have a normal traffic stop for a vehicle violation that we want to contact this guy, see who he is and further investigate from there and now it's gone from... everything that he's done... with the numerous arrests that I've done and everybody on the team, you know with narcotics, it's all going in order." Deputy [redacted] added that he felt the suspect was ready to stop at this point and give up.

At this point, Deputy [redacted] said the car was stopped and he heard Deputy Ellis yell at the driver, "Let me see your hands." The driver's door opened as Deputy [redacted] reached the passenger's door. [redacted] looked inside the truck and saw a holster on the front seat of the truck. It was partially hidden under the fold down arm rest. The barrel portion and trigger portion of the holster were only exposed. Deputy [redacted] immediately thought that the suspect had a gun in the holster or on his person. Deputy [redacted] said he then screamed, "Gun!" He stepped back and pointed his weapon at the suspect. At the same time, it appeared to [redacted] that the suspect was grabbing for the holster. Deputy [redacted] said, "Now, I'm thinking, he's got a gun and were going to get in a shooting and someone is going to get shot." Deputy [redacted] said at that moment he almost fired at the suspect. He added that it was the closest that he had ever come to having shot someone. The next thing [redacted] saw was that the suspect had gone partially out of his view. [redacted] opened the passenger door and retrieved the holster and discovered that it was empty. He immediately thought that the suspect had the gun on him somewhere. At about the same time he entered the truck, the suspect was pulled out of the driver's side. [redacted] did not see who assisted Ellis in pulling the suspect out. [redacted] immediately looked throughout the interior of the truck for a gun, however, he did not find one.

After failing to find a gun, Deputy [redacted] exited the truck and went around the front of the truck and saw that the suspect was handcuffed. A search was conducted and no gun was found, however, a bag of methamphetamine and another holster found.

Follow-up questions:

When asked, Deputy [redacted] said that he did not broadcast any radio traffic regarding this incident from the time it began until after it was over. He said the reason that he didn't was because it "evolved so rapidly."

Deputy [redacted] estimated that it was about two seconds between the time he opened passenger's side door and the time the suspect was pulled out of the driver's side. [redacted] estimated that he checked inside the truck for about five seconds while looking for the gun. It then took him an additional two seconds to run around the front of the truck.

Deputy [redacted] said that he did not see any deputy jab or strike the suspect with a flashlight while the suspect was inside the truck. While the suspect was outside on the ground next to the truck, Deputy [redacted] did not see any deputy jab or strike the suspect with a flashlight. The suspect was handcuffed by the time [redacted] came around the truck and the suspect was not struck after he was handcuffed.

Deputy [redacted] said that he did not recall seeing the suspect do a "three-point turn" prior to the attempted traffic stop.
When asked, [redacted] said he didn't notice any blood inside the truck while he was in it looking for the gun. He did see some blood later after the suspect was handcuffed. [redacted] said he saw blood on the suspect's face, but did not know how the suspect sustained his injuries. He was later told that the injury occurred when the suspect was pulled out of the truck and struck his face on a hard surface. [redacted] did not see that occur.

When asked why he exited his patrol car and chased the suspect on foot, Deputy [redacted] said, "Once we came into the parking lot where there were no avenues of escape, other than him getting out of the car and running at this point, my thinking was, I like to get out of my car as quick as I can. I feel it is tactful to be out of my car than in the seat, to where I can move and I can see. I always get out and coupled with the fact of seeing Ellis jumping out there, he needs someone on his right side, a second set of eyes to go up to that car." He added that he would have exited the car either if he saw Ellis or not.

Deputy [redacted] acknowledged that the suspect could have circled around and exited the parking lot at the east driveway. He added, however, he felt the suspect was "done," and ready to stop.

Deputy [redacted] said that the main reason for stopping the car was the expired registration and the desire to identify the driver. He added that if the car would have had current registration and there was no other reason to stop the car, the driver "would have been going on his way."

When asked, Deputy [redacted] said that he did not use any force on the suspect, he did not observe any flashlight strikes used on the suspect and he did not see the suspect strike his face when being pulled from the truck. Deputy [redacted] said he was focused on the possible gun and did not see the suspect ever actually swing his arms at the deputies.

Deputy [redacted] said that while he was at the scene of the arrest, he had no opinion as to the extent of the suspect's injuries. [redacted] did not know if the suspect's nose was broken. He thought the blood was from the cut on the suspect's nose.

Refer to Exhibit A-Incident Report written by Deputy [redacted] and Exhibit R-Hand Drawn Diagram by Deputy [redacted]

ADDITIONAL STATEMENTS:

> **IAB Note:** Although they were not witnesses to the incident, Lieutenant Wallace Fullerton, Sergeant Steven Sylvies and Deputy Randolph Megrdle were interviewed as part of this investigation. Lieutenant Fullerton was the P.M. Shift Watch Commander and Sergeant Sylvies was the involved deputies' supervisor. Deputy Megrdle was working as Sergeant Sylvies' partner at the time of the incident. The reason for the interviews was because the initial information did not include the fact that the suspect was struck by a flashlight and that the injuries sustained by the suspect were only minor. Later, the suspect alleged that he was struck by a flashlight to the face and he sustained a broken nose, left elbow and three ribs.

LIEUTENANT WALLACE FULLERTON

Lieutenant Fullerton was interviewed on Friday, June 18, 2004, at 1419 hours at Lancaster Station.

Lieutenant Fullerton was assigned as the Watch Commander at the time of this incident. He related that sometime between 4:30 and 5:00 P.M., he received a phone call from Sergeant Sylvies, who was calling on a cell phone from the field. Sergeant Sylvies called to report a minor use of force. According to Lieutenant Fullerton, Sergeant Sylvies described the circumstances surrounding the force as follows:

> Deputies had made a traffic stop on a vehicle, where the driver would stop then drive a short distance, and then stop again and then drive away a short distance. The driver did this several times prior to coming to a complete stop. When the driver did stop, the deputies approached the car and one of them saw a holster in the front seat next to the driver. Upon seeing the gun, the deputy yelled, "Gun!" to the other deputies. The driver started to reach in the general area of the holster. Deputy Ellis then opened the door and pulled the driver out from the vehicle. As the driver was being pulled out, his face came in contact with one of the door pillars. This contact caused a laceration to the driver's nose. The driver was taken to the ground and handcuffed.

Sergeant Sylvies advised that the suspect was going to be transported to the hospital. Sergeant Sylvies also advised that he interviewed the suspect at the scene and the suspect related that he slipped and fell, and the deputies had acted appropriately.

Lieutenant Fullerton directed Sergeant Sylvies, to bring the interview tape of the suspect back to the Station and he (Fullerton) would complete the Watch Commander interview with the suspect on the same tape.

> **IAB Note:** At this point in the interview, Lieutenant Fullerton explained that Sergeant Sylvies was assigned to a specialized team and worked directly for Lieutenant Fredricks. In force incidents involving the team members, Lieutenant Fredricks, not Fullerton reviewed the reports. However, Lieutenant Fullerton was still responsible to interview the suspect and assess the force incident. Lieutenant Fredricks was not at the Station at the time of this incident.

At about 7:00 P.M., while Lieutenant Fullerton was waiting for the suspect to return to the Station from the hospital, Deputy Ellis entered the Watch Commander's Office, and asked him if he needed anymore information regarding the use of force incident. Lieutenant Fullerton told Deputy Ellis that he didn't need anything further and then reiterated to Deputy Ellis the information that had been given to him by Sergeant Sylvies. Deputy Ellis then acknowledged that the information was correct and walked out of the office.

Lieutenant Fullerton then made a telephonic notification to Lieutenant Stacy Lee, the on-call IAB Lieutenant. He related to her the same information that he had received from Sergeant Sylvies. Additionally, he completed the IAB Mandatory Notification form and e-mailed it to her sometime prior to 8:00 P.M. There was no mention of flashlight strikes in this first notification to IAB. **Refer to Exhibit S-Copy of 1st IAB Notification**

At about 8:00 P.M., Lieutenant Fullerton had not yet heard from Sergeant Sylvies with an update on the status and condition of the suspect, so he walked back to Sylvies' office to look for him. Lieutenant Fullerton found Sylvies and asked him if the suspect was back from the hospital and ready to be interviewed. Sergeant Sylvies advised that the suspect was back and ready to be interviewed. He then handed Fullerton the tape and video camera. According to Lieutenant Fullerton, there was no other conversation between him and Sergeant Sylvies at this time regarding the force used on the suspect.

Lieutenant Fullerton then went to the jail and interviewed the suspect on video. Lieutenant Fullerton said that when he entered the cell, he immediately saw that the suspect did not have a minor laceration on his nose, he in fact had a "fairly large"one, and there was a "considerable amount of blood." Additionally, Lieutenant Fullerton thought the suspect's nose looked "distorted, and not a minor injury." **Refer to Exhibit T-Video Tape of Suspect's Interview and Exhibit U-Six Polaroid Photographs of Suspect**

When Lieutenant Fullerton asked the suspect what happened, the suspect was evasive with his answers. Finally at one point, after being asked again how he sustained the injury to his face, the suspect said that he was hit in the face with a flashlight. When the suspect was asked why he hadn't told the sergeant that he had been hit in the face with a flashlight, he said something to the effect, "You're kidding, right?" The suspect also related that his left elbow and left ribs were injured. He also said that he was having difficulty breathing. The suspect continued to be evasive about how the injuries occurred. The suspect then again denied, that he was hit with a flashlight and alleged that he slipped and fell down. It was Lieutenant Fullerton's opinion, that it was obvious that the suspect's injuries were significant. Fullerton recalled that he had been advised by someone that the suspect had received x-rays while at the hospital and it was determined that the suspect had not sustained any fractures. Fullerton could not recall where he had heard this information. After seeing the suspect's obvious significant injuries, Lieutenant Fullerton said he could not believe that the suspect had not sustained any fractures. Lieutenant Fullerton was concerned that the suspect was possibly not properly treated while at the hospital. He then directed Sergeant Schoonmaker to transport the suspect back to the hospital and ensure that the suspect's nose, elbow and ribs were x-rayed. He also wanted an opinion on how the injuries occurred and if they were consistent with flashlight blows or contact with a door post. Lieutenant Fullerton also directed Sergeant Schoonmaker report back the findings to the E.M. Watch Commander, Sergeant Cory Kennedy. If the suspect had sustained any fractures, Sergeant Kennedy was directed to re-contact Lieutenant Stacy Lee and give her the information.

> **IAB Note:** Sergeant Schoonmaker contacted Dr. Lee at Antelope Valley Medical Center. Dr. Lee advised that Suspect Merz' injuries were caused/consistent with a blunt object. **Refer to Exhibit V-Supplemental Report written by Sergeant Schoonmaker**

Additionally, Lieutenant Fullerton called Lieutenant Lee and updated her regarding the changed information on the force. Fullerton said he described the original information to Lieutenant Lee as being "low-balled." He further told her that after looking at the suspect and talking to him, he felt concerned that the first medical observation and assessment was possibly not proper, and the suspect was being sent back to the hospital. Fullerton also advised Lieutenant Lee that he would call her back if the suspect had in fact sustained fractures. **Refer to Exhibit W-Copy of 2nd IAB Notification**

Follow-up questions:

Lieutenant Fullerton was asked if he had re-contacted Sergeant Sylvies after talking to the suspect and seeing the significant injuries and before sending the suspect to the hospital. Lieutenant Fullerton said he told Sylvies that the suspect had additional injuries other than his face. According to Lieutenant Fullerton, Sergeant Sylvies said something to the effect, "Oh, I forgot to tell you, I found out from the first time I talked to you until now, that there was some other force that was used. Deputy Haines hit this guy with a flashlight about four times in the ribs and four times on the elbow, when there was a struggle, because the guy was hunching over and going after what could be considered his waistband towards a weapon, outside the vehicle." Sylvies did not tell Fullerton the

time that he had found out about the flashlight strike and Fullerton did not ask him at that point, nor did Sergeant Sylvies offer an explanation as to why he didn't tell him earlier.

When asked if Deputy Ellis had ever mentioned anything about flashlight strikes when he came into the Watch Commander's office earlier, Lieutenant Fullerton said, "No."

Lieutenant Fullerton said that he had not heard anything about a pursuit related to this incident. A pursuit was not reported to him.

Lieutenant Fullerton was not at the Station when the suspect returned from the hospital the second time at about 2:00 A.M. He had been relieved from his shift and gone home. He did not learn about the suspect's condition until the following day.

> **IAB Note:** Near the end of the interview, Lieutenant Fullerton added that after hearing that the suspect had been struck with flashlights, he direct Sergeant Sylvies to examine each of the involved deputies' flashlights for blood. Sergeant Sylvies later contacted Lieutenant Fullerton and told him that no blood was found on the flashlights.

> **Additional IAB Note:** Lieutenant Fullerton assisted me in photographing the suspect's truck at the tow yard. **Refer to Exhibit X-Photographs of Suspect's truck and blood**

SERGEANT STEVEN SYLVIES

Sergeant Sylvies was interviewed on Friday, June 18, 2004, at 1707 hours at Lancaster Station by Sergeant William Hines.

> **IAB Note:** With the concurrence of Captain Carl Deeley, Sergeant Sylvies was interviewed as a Witness, however, he was afforded the opportunity to have a representative with him during the interview. This was due to Sergeant Sylvies not notifying the Watch Commander, Lieutenant Fullerton, of the flashlight strikes to the suspect during the arrest. Sergeant Sylvies chose to be interviewed without representation.

Sergeant Sylvies is currently the supervisor of the LanCap Team, which is the Lancaster Community Appreciation Project, and the TOP-SID Team, which is Target Orientated Policing-Special Investigation Detail. He has had that assignment for approximately five months. He has approximately sixteen years on the Department. On the date of the incident, Deputy Randolph Megrdle was Sergeant Sylvies' partner.

Regarding the force incident, Sergeant Sylvies said that at about 1600 hours, he was requested to meet in a parking lot with deputies near Date Avenue and Avenue I. The request was made over L-Tac by Deputy Ellis. On his arrival, Sergeant Sylvies saw a small black truck in the parking lot,

parked northbound, about twenty yards from the entrance. There were two patrol cars stopped behind the truck. Sergeant Sylvies saw the suspect sitting on the ground next to the driver's side of the truck. The suspect was handcuffed. Sergeant Sylvies saw "a lot of blood smeared on the suspect's face." Sergeant Sylvies saw a laceration on the suspect's nose. The suspect appeared to be coherent and responsive.

A paramedic unit arrived a short time after Sergeant Sylvies. During the paramedics' interview of the suspect, the suspect did not complain of any injury other than the one to his nose. The suspect did not appear to be in any discomfort or pain. The suspect told the paramedics that he had fell down and that was how he injured his nose. **Refer to Exhibit Y-Four Polaroid Photographs taken by Sergeant Sylvies at the scene**

A short time later, Sergeant Sylvies spoke with Deputy Ellis to find out the circumstances of the arrest. According to Sergeant Sylvies, Deputy Ellis gave the following account of what happened:

> Deputy Ellis had seen Deputy Vensel and [redacted] make a traffic stop of the black truck at Cedar Avenue near the T-intersection of Avenue I. As they arrived at the stop, Ellis could see Deputy Vensel at the truck ordering the suspect to turn of the ignition. The truck started across the intersection and turned left onto Avenue I and was headed westbound. Both patrol cars then followed the suspect and attempted a traffic stop on the suspect. The suspect was driving at a slow pace and would speed up, then slow down in a "jerking motion." The suspect eventually turned northbound into the parking lot and eventually came to a stop. Deputy Ellis, with his gun drawn, approached the driver's side of the truck and Deputy [redacted] also with his gun drawn, approached the passenger side. They both ordered the suspect to raise his hands in the air. As Deputy Ellis approached and at some point opened the driver's door.
>
> > **IAB Note:** Sylvies was not sure of the sequence in which the door was opened.
>
> The suspect was seat belted in the seat. At this point, Deputy [redacted] yelled out, "Gun!" [redacted] did not yell out the location of the gun. The suspect turned his back to Deputy Ellis and started moving toward the passenger side. Ellis said that due to the combination of hearing "Gun" and the fact that the suspect was moving toward the passenger side, Ellis was fearful that the suspect was going to retrieve a gun. Deputy Ellis grabbed the suspect and tried to pull him from the truck. The suspect started to struggle by resisting being pulled from the truck. Deputy Ellis was then able to use his own body weight and pushed the suspect forward in the driver's seat. Deputy Ellis was attempting to push the suspect away from the center console area of the truck. Ellis pushed the suspect forward, and "drives the suspect's face up into the corner post area, the front post area of the driver's door."
>
> > **IAB Note:** Sergeant Sylvies explained that it was his understanding that the suspect hit his face on the windshield frame, not the door frame.
>
> At this point, the suspect was dazed and paused for a moment. Deputy Ellis was still attempting to pull the suspect out and Ellis cut the seatbelt in order to get the suspect out.

The suspect continued to struggle and resist the deputies by pulling away from the deputies. At this point, Deputy Haines had moved into the area and was assisting Deputy Ellis in attempting to pull the suspect out of the truck. They were then able to pull the suspect out to the ground in a face down position. While on the ground, the suspect put both arms underneath his body. Due to the possibility that the suspect had a gun on him, Deputies Ellis, Haines and Vensel forced the suspect's arms out from under him and handcuff him. Deputy Ellis then requested paramedics and Sergeant Sylvies to the location.

After talking to Deputy Ellis, Sergeant Sylvies called the station and spoke to Lieutenant Fullerton and reported the force used during the incident as reported to him. Sylvies told Fullerton that the suspect had sustained a "facial laceration" and had been treated by paramedics. The suspect was not complaining of any other injuries and said that he had fell down.

Approximately fifteen to twenty minutes later, and after the deputies had completed their search of the truck for the suspect's gun, Sergeant Sylvies spoke to Deputy [redacted] According to Sergeant Sylvies, Deputy [redacted] reported that the only force he saw was Deputy Ellis struggling with the suspect. Deputy [redacted] did not report using any force during the arrest of the suspect. Sergeant Sylvies related that his conversation with Deputy [redacted] focused on what [redacted] saw related to a gun.

Sergeant Sylvies next spoke to Deputy Vensel. According to Sergeant Sylvies, Vensel reported that during the struggle with the suspect, he was able to reach through Deputies Ellis and Haines and grab one of the suspect's legs and pull the suspect out of the truck. Sergeant Sylvies could not recall if Vensel reported observing any other force by Deputies Haines, Ellis or [redacted] Sergeant Sylvies could not recall if Deputy Vensel said he saw the suspect strike his nose on the truck. Deputy Vensel did not report seeing a flashlight strike.

> **IAB Note:** Sergeant Sylvies added at this point in his interview that his practice is to get a "brief overall synopsis" and after that he sits down with the deputies and gets an "in-depth detail" of what occurred.

Sergeant Sylvies said he spoke "briefly" to Deputy Haines at the scene. According to Sergeant Sylvies, Deputy Haines related that he had seen Deputy Ellis struggling with the suspect. Deputy Haines heard Deputy [redacted] yell, "Gun!" Deputy Haines "moved in" as the suspect was struggling. Based on his belief that the suspect had a gun, Deputy Haines grabbed the suspect's left arm and stuck the suspect on the left elbow four to five times with a flashlight. Deputies Haines and Ellis then pulled the suspect out on the ground. The suspect put his arms under his body face down. Deputies ordered the suspect to remove his hands from underneath. Deputy Haines, still believing that the suspect had a gun, struck the suspect on the lower left back four to five times with his flashlight. This action caused the suspect to release his hands and the deputies were able to handcuff the suspect.

Sergeant Sylvies then directed Deputies Ellis and Haines to transport the suspect to Antelope Valley Medical Center for treatment.

When asked what sequence he spoke to everyone at the scene, Sergeant Sylvies said he was talking to Deputy Ellis as the paramedics arrived. He was listening to the conversation between the paramedics and the suspect at the same time he was talking with Deputy Ellis. After the paramedics left the location, Sergeant Sylvies interviewed the suspect on video camera. After his interview with the suspect, Sergeant Sylvies then spoke to Deputies [redacted] Vensel and Haines.

During his interview with the suspect, Sergeant Sylvies said the suspect told him that the deputies "acted professionally" and that he had fell down. Prior to the video interview, Sergeant Sylvies asked the suspect how he was and the suspect told him he was "fine." The suspect did not complain of any other injuries. Sergeant Sylvies said he did not believe that the suspect fell down. Sergeant Sylvies felt at this point that he would wait until the suspect returned from the hospital and then attempt to interview him again. Sergeant Sylvies said that either he or the Watch Commander would later re-interview the suspect. **Refer to Exhibit T-Video Tape of Interview of the Suspect**

Sergeant Sylvies took four photographs of the suspect's injuries at the scene prior to the video interview. **(Exhibit Y)** Sergeant Sylvies said that it was his opinion that the blood on the suspect's face was from the inside of the suspect's nose and the cut on the suspect's nose. Sergeant Sylvies said he believed that the suspect's nose was possibly broken, however, the suspect was coherent and was not complaining of pain to his nose. When asked if he notified Lieutenant Fullerton of the possible broken nose, Sergeant Sylvies said, "I don't think I mentioned an actual broken nose to the Watch Commander." When asked why he didn't mention it to the Watch Commander, Sergeant Sylvies answered, "Because I didn't know." When asked why he didn't advise the Watch Commander that the suspect's nose "might" be broken, Sergeant Sylvies said, "No, I was basing it what I saw. I knew the suspect was going to go to the hospital. The paramedics made no indication of a possible broken nose. They basically kind of looked at him. I think he denied basically any type of medical treatment from them."

Sergeant Sylvies estimated that he was at the scene for approximately thirty to forty-five minutes. He then drove back to the station. ←

Sergeant Sylvies was asked if he, while still at the scene and after he discovered that Deputy Haines struck the suspect with a flashlight, called the Watch Commander and updated him regarding that information and Sergeant Sylvies said, "No I did not." He was then asked why not and he answered, "At that point, I mean based on the suspect's condition, I didn't really see or feel that there was any injury from the flashlight strikes. The suspect made no acknowledgment of any injuries or anything." When asked if the suspect ever told him, while at the scene, he was ever struck with a flashlight, Sergeant Sylvies said, "No, nor did he indicate any injuries that would lead me to believe [that]. I didn't feel that was something I needed to turn right around and call the Watch Commander with." ←

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Sergeant Sylvies estimated that he returned to the station at approximately 1700 or 1730 hours. He was not sure what time he arrived. After he returned to the station, he assisted the LanCAP team deputies with their reports regarding an earlier search incident. He did not leave the station again

until about 1830 hours, when he left to take care of a personal matter. He returned to the station again at about 1930 hours.

Once he returned to the station, Sergeant Sylvies re-contacted Deputies Haines, Vensel, Ellis and [redacted] Sergeant Sylvies believed that the suspect had returned from the hospital and he spoke to Deputies Ellis and Haines about the status of the suspect. Sergeant Sylvies was advised that while at the hospital, a band-aide was also placed on the suspect's nose and an x-ray was taken of the suspect's upper torso. There was no indication of any fractures, nor any other injuries to the suspect.

A short time later, Sergeant Sylvies received information that the suspect was possibly going to go back to the hospital. Sylvies could not recall who told him this information. Also at this time, the deputies were at the Station and had started to write their reports. Deputies Vensel and [redacted] immediately returned to the Station after the incident and started to write their reports.

While the deputies were writing their reports, Lieutenant Fullerton contacted Sergeant Sylvies and obtained the video camera to interview the suspect. Later, Lieutenant Fullerton returned and told Sergeant Sylvies that the suspect had alleged that he had been hit with a flashlight and the suspect had "severe swelling to his elbow and difficulty breathing." According to Sergeant Sylvies, as Lieutenant Fullerton was giving him this information, Sergeant Sylvies realized that he had not advised Lieutenant Fullerton of the fact of the flashlight strikes. Sergeant Sylvies stated, "At that point, I realized I dropped the ball with that aspect of it. There is nothing to hide there." Sergeant Sylvies could not remember his exact words to Lieutenant Fullerton. Sergeant Sylvies acknowledged that there was "no excuse" for not advising Lieutenant Fullerton of the flashlight strikes.

Sergeant Sylvies then re-contacted the suspect and took additional photographs of the suspect. **(Exhibit U)** While taking the photographs, Sergeant Sylvies noticed that the suspect was having difficulty breathing and moving his left arm. These photographs were taken prior to the suspect returning to the hospital. **Refer to Exhibit U-Six Polaroid Photos of the Suspect**

After taking the photographs, Sergeant Sylvies read and approved all of the reports related to this incident. He recalled that he approved the reports between 2100 and 2200 hours. He left the station at about 2300 hours and all reports had been completed and approved.

Follow-up questions:

When asked if he had any concerns about lack of information or discrepancies in the reports, Sergeant Sylvies related that he did have a concern on Deputy Vensel's report due to the fact that Vensel saw the suspect "toss" something from the vehicle during the initial attempt to stop the suspect and someone later possibly picked that object up. That fact was not in the report and Sergeant Sylvies wanted that fact to be added to the report. At the time of the interview, that had not been done, however, Sergeant Sylvies was going to have Deputy Vensel complete a Supplemental Report with that additional information. It was Sergeant Sylvies' belief that the suspect possibly threw a gun from the truck.

Sergeant Sylvies said he had no concerns regarding possible discrepancies in the use of force in the reports.

Regarding what further investigation Sergeant Sylvies conducted, he said that he observed blood on the floor board of the suspect's truck and on a cup inside the truck. He did not take photographs of the blood. Sergeant Sylvies also examined Deputies Ellis and Haines' flashlights and did not detect any evidence of blood. He did not examine Deputies Vensel or [redacted] flashlights.

Sergeant Sylvies was asked if he noticed that the injury to the suspect's nose as explained at the scene by Deputy Ellis was different than what Deputy Ellis wrote in his report.

> **IAB Note:** At this point in the interview, we went off the record and Sergeant Sylvies reviewed Deputy Ellis' report. In his report, Deputy Ellis wrote that the suspect's nose was struck as they were pulling the suspect from the truck. At the scene, Deputy Ellis explained that he pushed the suspect forward while the suspect was still seated in the driver's seat and hit his nose at that time. After reviewing the report, Sergeant Sylvies said he did not recall that discrepancy in the report. He also explained that he has found that it is "very common" that an "initial statement, a lot of times will not be accurate." He added that he likes to conduct more in-depth interviews later after the entire situation is over to "allow the deputies more time to actually clearly articulate or verify" what occurred. He explained that reflecting on his own experiences, he has looked back on an incident and realized that he had gotten the sequence of events out of order. In relating back to this incident, Sergeant Sylvies essentially said that there was nothing in the report that he "keyed on" that would cause him any concern. He added that he was basing Deputy Ellis' initial statement on the accuracy of his (Sylvies') own memory.

But this is about same thing pretty sign. That should have keyed something.

Sergeant Sylvies was specifically asked if he had any concerns about the possible discrepancies in the four reports that he read and approved related to this incident.

> **IAB Note:** In reviewing all the reports it was noted that not all of the deputies at the scene reported that they witnessed the flashlight strikes. This question to Sergeant Sylvies was to ascertain if he had any concerns.

Sergeant Sylvies said, "Basically, this situation here, based on my investigation, this thing could have very easily gone to deadly force and if the deputies... I mean after talking to them, there were circumstances that kept this from going to deadly force; the close proximity, the cross fire situation. This thing had escalated very quickly. All the deputies were taking some form of action. In that type of situation, with all that's going on, I can speak from personal experience, that you get tunnel vision, you're focusing on what you are trying to accomplish. You can't be aware or see everything that's going on around you. You might see other arms coming in, but if you are trying to prevent this guy from arming himself and you have one goal in mind, is to stop him from doing so, there's probably going to be a lot of things going on that you're going to be completely unaware of. To me, this shows that the deputies are being completely straight forward. They're not trying to help

articulate another person's actions, because they did not see it. They were unaware of it. Deputy Vensel is talking about going down and grabbing the suspect's leg. The only thing that he would probably be seeing is the suspect's leg or the behind of one of the other deputies that's in front of him. Deputy Ellis is focusing on trying to control the suspect's hands and get him from that car. He's also trying to figure out how to get rid of the seatbelt that's hindering them from getting him out and ends up cutting the seatbelt. Deputy Haines has the same mission as Deputy Ellis. They are trying to prevent this guy from arming himself, which would obviously take this into the suspect not being here now, or more seriously injured. I can see Deputy [redacted] point of view. He was focused on trying to get that holster, which at that point he believed contained a gun. I mean, a lot happened in a very confined area, so the deputies not seeing another deputies actions... it's not like they're sitting back and just watching this. They are all 'knee deep' in this and they are all trying to figure out how to prevent this thing from going any further. So reading these reports and them not seeing other deputies' actions, to me that is very common. Four people can watch the same movie and tell you different things. Does that raise any suspicion on my behalf? No, it doesn't. It tells me that these guys were in a very bad situation and they were focused on what they felt they needed to do. In my opinion they were justified in doing whatever they had to do in this situation."

When asked, Sergeant Sylvies said he was confident that the suspect was not struck in the nose with a flashlight and had received the laceration and broken nose when he hit the door frame.

Sergeant Sylvies added, "These deputies are in these positions for a reason. These are very sharp deputies who are very aware and knowledgeable about force, policy and procedures. We talked about it later that night. I felt and they felt too, that they had every right to hit him in the face with a flashlight, if not shoot him. I think based on the location of the deputies, that's the only thing that kept him from being shot by Deputy [redacted] I would see no reason at all to hide that fact, because they were justified to take that severe of action in this type of case. My investigation and the blood in the truck, the location of the blood droppings on the floorboard, to me kinda corroborated the suspect's positioning when he struck his nose and the blood falling. The suspect is getting struck with the flashlight while in the truck and if it does happen when he is actually being pulled from the truck, it may have felt like a flashlight struck him. Obviously, his mind frame isn't, 'Okay, what exactly are they doing to me?' He's trying to get away from them and resist what they are trying to do. So, if he is getting struck on the arm with a hard object, then his face gets hit with a hard object, or his face hits a hard object, yeah, that's probably what he's thinking. Then he gets hit again with a flashlight on the ground. It probably all feels the same. So, like I said, based on the circumstances, I... there's no doubt in my mind."

Sergeant Sylvies said he was unable to locate any witness to this incident.

After the interview, Sergeant Sylvies sketched a hand drawn diagram of the incident scene as he recalled it. **Refer to Exhibit Z-Hand Drawn Diagram by Sergeant Sylvies**

DEPUTY RANDOLPH MEGRDLE

Deputy Megrdle was interviewed on June 22, 2004, at Lancaster Station. He was assigned to Lancaster Station and a member of the Target Oriented Policing/Special Investigations Detail (TOP/SID) on the date of the incident. He is the lead deputy and was working with Sergeant Sylvies.

Regarding the incident, Deputy Megrdle recalled going to the location of the incident along with Sergeant Sylvies. Once he arrived, his attention was on the suspect and the suspect's injuries. Deputy Megrdle related that he did not overhear any of the force reported to Sergeant Sylvies, nor did any deputy report force to him. He added that he has no role as a supervisor in which force would be reported to him.

MISCELLANEOUS

None